

**TITLE 13. PUBLIC SAFETY****Chapter**

- 1. Department of Public Safety - Criminal Identification Section**
  - Article
    1. General Provisions
- 2. Department of Public Safety - Private Investigators**
  - Article
    1. General Provisions
- 3. Department of Public Safety - Tow Trucks**
  - Article
    1. General Provisions
    2. Tow Truck Permits
    3. Tow Truck Specifications
    4. Tow Truck Equipment Specifications
    5. Qualifications of Tow Truck Operators
    6. Enforcement of Rules and Regulations
- 4. Arizona Peace Officer Standards and Training Board**
  - Article
    1. General Provisions
    2. Correctional Officers
- 5. Law Enforcement Merit System Council**
  - Article
    1. General Provisions
    2. Investigation and Hearings
3. Classification
  4. Compensation
  5. General Entrance and Promotion Provisions
  6. General Appointment Provisions
  7. General Employee Conduct Provisions
  8. General Personnel Provisions
  9. Repealed
- 6. Department of Public Safety - Security Guards**
  - Article
    1. General Provisions
- 7. Department of Public Safety - Polygraph Examiners**
  - Article
    1. Repealed
- 8. Department of Public Safety Local Retirement Board**
  - Article
    1. Procedures
- 9. Department of Public Safety - Concealed Weapon Permits**
  - Article
    1. General Provisions
- 10. Department of Public Safety - Rules of Practice (no rules filed)**

**TITLE 13. PUBLIC SAFETY****CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY -  
CRIMINAL IDENTIFICATION SECTION**

(Authority: A.R.S. § 41-1750 et seq.)

**ARTICLE 1. GENERAL PROVISIONS**

## Section

- R13-1-01. Explanation of rules and regulations
- R13-1-02. Provide accurate and timely information
- R13-1-03. Latent fingerprint identification assistance
- R13-1-04. Information required of law enforcement agencies
- R13-1-05. Procedures and restrictions on dissemination of information
- R13-1-06. Procedures for dissemination of information to non-law enforcement agencies
- R13-1-07. Procedures for dissemination of information to licensing and regulatory agencies
- R13-1-08. Procedures for dissemination to, or correction of information by, the subject of the records
- R13-1-09. Right to hearing after denial or restriction of information

**ARTICLE 1. GENERAL PROVISIONS****R13-1-01. Explanation of rules and regulations**

The following rules and regulations relating to the procurement and dissemination of information in the Criminal Identification Section are authorized by A.R.S. § 41-1750(F) (Supp. 1971-72). All materials and information collected pursuant to A.R.S. § 41-1750 are hereby classified as confidential -- the release of, or use of said materials or information except as provided by A.R.S. § 41-1750 is prohibited and access to the files is limited to authorized employees of the Department of Public Safety's Criminal Identification Section.

**R13-1-02. Provide accurate and timely information**

The primary function of the Department of Public Safety's Criminal Identification Section is to provide accurate and timely information to all law enforcement agencies regarding criminal history information. To disseminate this information to law enforcement agencies, the Department of Public Safety provides toll-free telephone service and teletype service, or information may be obtained in person after providing proper identification.

**Historical Note**

Former rule 1.

**R13-1-03. Latent fingerprint identification assistance**

- A. The Criminal Identification Section of the Department of Public Safety shall maintain a latent fingerprint identification laboratory and a sufficient number of latent fingerprint identification officers to provide assistance as needed to any law enforcement agency on a 24-hour-a-day basis for the detection and development of latent fingerprints.
- B. The chief officer of any law enforcement agency, or his authorized representative, may obtain the assistance of these officers by contacting the Criminal Identification Section of the Department of Public Safety.
- C. The latent identification officers shall also be available to process evidence submitted to the Criminal Identification Section for the purpose of detecting latent fingerprints and shall provide expert court testimony as required.
- D. The chief officer of any law enforcement agency, or his authorized representative, upon submitting evidence to the Criminal Identification Section, shall complete any form required at the time of submitting such evidence.

**Historical Note**

Former rule 2.

**R13-1-04. Information required of law enforcement agencies**

All law enforcement agencies of the state of Arizona shall provide the Criminal Identification Section of the Department of Public Safety the following information:

1. A complete set of fingerprints on each initial arrest. Said fingerprints will be imprinted on the appropriate fingerprint form that is provided by the Federal Bureau of Investigation.
2. For each subsequent arrest, each law enforcement agency of the state of Arizona shall provide to the Criminal Identification Section of the Department of Public Safety one of the following:
  - a. A complete set of fingerprints on the appropriate F.B.I. fingerprint form, and include name, description data, and arrest data; i.e., description of charge, statute number, Arizona Criminal Identification Section number, and F.B.I. number, if available.
  - b. Department of Public Safety Form 30.60.03 entitled "Additional Arrest Information" completed in full, with Arizona Criminal Identification Section number and the inked impressions of the arrested individual's right four fingers. If the right hand is amputated, imprint the left four fingers and so indicate. In cases where the Criminal Identification Section number is not available, follow instructions in subparagraph (2)(a) above.
3. In all cases where possible on an initial arrest, each law enforcement agency of the state of Arizona shall provide the Criminal Identification Section of the Department of Public Safety with a photograph of the person arrested and on the back of said photograph shall inscribe the subject's name, date of birth, description of charge, and statute violated.

**Historical Note**

Former rule 3.

**R13-1-05. Procedures and restrictions on dissemination of information**

- A. The employees of the Criminal Identification Section of the Department of Public Safety shall not release information until after determining that the requesting party is, in fact, entitled to said information. After this determination has been made, information shall be disseminated in the following manner:
  1. In-person request: Information shall be released after satisfactory identification has been made.
  2. Telephone requests: Requested information shall be recorded along with the requesting party's name, identification number, agency of employment, dated and time-stamped. Information to be disseminated will only be given by return phone call, teletype or letter to a previously designated phone number or address at the agency of employment. Information will not be returned to a private phone number.
  3. Mail requests: Requests for information received by mail will only be accepted on agency letterhead, when signed by the chief officer of the requesting agency or his authorized representative. All written requests must contain the

name of the requesting party and the purpose for obtaining the requested information. All requested information shall be return-addressed to the requesting officer and directed to the requesting agency's physical address.

4. Teletype requests: Teletype requests will be answered as soon as possible by return teletype and, if requested, additional information will be forwarded to the requesting agency by mail.
- B. The chief officer of any agency receiving information from the Criminal Identification Section shall cooperate with officers of the Department of Public Safety in the investigation of violations of A.R.S. § 41-1750 and these rules.
  - C. In addition to the penalties provided by law, any department or agency which misuses or releases information contrary to law or violates any provision of these rules may be temporarily denied information from the Criminal Identification Section pending an investigation by the Department and shall not be reinstated until such time as the chief of the Criminal Identification Section is satisfied that the department or agency is in full compliance with the law and these rules.
  - D. Any person convicted under the provisions of A.R.S. § 41-1750(D) shall be denied further information from such files unless such request for information is accompanied by an affidavit signed by the chief of the requesting agency. Such affidavit shall set forth:
    1. The facts and circumstances surrounding the prior conviction, and
    2. A statement by the chief of the agency stating that he assumes full responsibility for the lawful use of any released information.

#### Historical Note

Former rule 4.

#### R13-1-06. Procedures for dissemination of information to non-law enforcement agencies

- A. The Department of Public Safety's Criminal Identification Section shall provide information from its records relating to convictions for public offenses to non-law enforcement agencies of the state or its political subdivisions for the purpose of evaluating the fitness of prospective employees of such agencies. Compliance to this rule will be made by the Criminal Identification Section after such agency has fully complied with A.R.S. § 41-1750(G), and the Criminal Identification Section has received, in writing, proper authorization to disseminate said information to such agency from the Attorney General of the state of Arizona.
- B. Upon receiving said authorization from the Attorney General, the chief of the Criminal Identification Section shall contact the chief officer of such agency and establish rules regarding the procurement and dissemination of information as outlined in R13-1-05.

#### Historical Note

Former rule 5.

#### R13-1-07. Procedures for dissemination of information to licensing and regulatory agencies

- A. The Department of Public Safety's Criminal Identification Section shall provide information from its records relating to convictions for public offenses to licensing and regulatory agencies of the State or its political subdivisions, for the purpose of evaluating the fitness of prospective licensees.
- B. Compliance to this rules will be made by the Criminal Identification Section after such agency has fully complied with A.R.S. § 41-1750(G) and the Criminal Identification Section has received, in writing, proper authorization to disseminate

said information to such agency from the Attorney General of the State of Arizona.

- C. Upon receiving said authorization from the Attorney General, the chief of the Criminal Identification Section shall contact the chief officer of such agency and establish rules regarding the procurement and dissemination of information as outlined in R13-1-05.

#### Historical Note

Former rule 6.

#### R13-1-08. Procedures for dissemination to, or correction of information by the subject of the records

- A. The subject of record or his attorney may be provided information contained on the "Arizona Criminal Offender Identification Records", DPS Form 30.60.04. The information on this record shall consist of dates and arrests, contributors of fingerprints, arrest numbers, charges of dispositions (where possible) which have occurred within the state of Arizona. The listing of this record shall be supported by fingerprints or other official documents contained in the Criminal Identification Section Criminal Offender Jacket relating to the subject of the record.
- B. The information may be reviewed, or for specific need a copy obtained, after proper completion of a "Review of Criminal Offender Record Information" form (DPS Form 30.60.05). The subject of the record to be reviewed must have his fingerprints imprinted upon this form. If a copy of the record is desired, the signature of the individual to whom the copy is released must be in the appropriate spaces both on the "Review of Criminal Offender Record Information" form and the "Arizona Criminal Offender Identification Record" being released. The name and identification number of the employee releasing the information must also be recorded on both forms.
- C. The fingerprints on the "Review of Criminal Offender Record Information" form must be verified as being identical to the fingerprints of the subject of record on file in the Criminal Identification Section by a Criminal Identification Section fingerprint technician or identification officer prior to any record being reviewed by the individual of record or his attorney.
- D. The reviewing individual may challenge any entry contained on the "Arizona Criminal Offender Identification Record" that he knows to be incorrect. To challenge any entry on the "Arizona Criminal Offender Identification Records", DPS Form 30.60.07 the "Exception Taken to Criminal Offender Record Information" form must be properly completed. This form must then be signed by the subject of the record to which exceptions are taken. This form will then be filed with the Criminal Identification Section.
- E. Upon receipt of an "Exception Taken to Criminal Offender Record Information" form, the employee accepting the form will place the current date and his/her serial number in the appropriate spaces. An audit of the record in question will begin within five days of receipt of this form and will be completed within 15 working days.
- F. To conduct an audit, the Criminal Identification Section shall contact each agency whose arrests are challenged as exceptions. The Criminal Identification Section will obtain a set of fingerprints relating to the arrest in question and verify whether or not they belong to the subject of the record in question. The Criminal Identification Section will obtain a disposition for each of the entries challenged and record such dispositions in its files and cause such dispositions to be recorded with the appropriate federal agency whose responsibilities involve maintaining records of arrests and dispositions.
- G. Upon completion of an audit, the "Exception Taken to Criminal Offender Record Information" form will be filed by the

## Department of Public Safety - Criminal Identification Section

Criminal Information Section in the subject of such record's jacket. The chief of the Criminal Identification Section shall then complete DPS Form 30.60.06 "Notice of Results of Audit of Criminal Offender Record Information". The form shall be prepared in duplicate. The original shall be filed in the Criminal Identification Section jacket of the subject of the record. The copy shall be sent to the individual who submitted the exceptions.

**Historical Note**

Former rule 7.

**R13-1-09. Right to hearing after denial or restriction of information**

- A. Any party or agency who has been denied information or has suffered a penalty or restriction under these rules and regulations due to the actions or inactions of the Department of Public Safety shall have a right to a hearing regarding the denial of

information or the penalty or restriction suffered - except any temporary denial of information under R13-1-05 pending an investigation by the Department of Public Safety which does not exceed three working days does not constitute a penalty or restriction, and no hearing shall be provided for departments or agencies affected by such temporary denial.

- B. The hearing shall be conducted by from two to three officers holding the rank of Lieutenant or above in the Department of Public Safety and one to two chief officers of any agency served or an authorized representative of any such agency, to be appointed by the Director or, in his absence or at his direction, the chief of the Criminal Identification Section.
- C. The required notice and hearing shall be in compliance with A.R.S. § 41-1009 et seq.

**Historical Note**

Former rule 8.

**TITLE 13. PUBLIC SAFETY****CHAPTER 2. DEPARTMENT OF PUBLIC SAFETY  
PRIVATE INVESTIGATORS**

(Authority: A.R.S. § 32-2401 et seq.)

**ARTICLE 1. GENERAL PROVISIONS**

## Section

- R13-2-01. Filing applications
- R13-2-02. License
- R13-2-03. Branch office certificate
- R13-2-04. Identification card
- R13-2-05. Issuance of license, branch office certificate, identification card - original or renewal
- R13-2-06. Denial of license
- R13-2-07. Renewal of license, branch office certificate, identification card
- R13-2-08. Revocation of license
- R13-2-09. Suspension of license
- R13-2-10. Employee records - business records
- R13-2-11. Complaints
- R13-2-12. Business and employee names

**ARTICLE 1. GENERAL PROVISIONS****R13-2-01. Filing applications**

- A. All applications for a license or identification card must be presented in person by the applicant at the Arizona Department of Public Safety office in Phoenix, Tucson, or Flagstaff. Each application must be complete, correct and notarized before acceptance. Each application shall be accompanied by the following documents where applicable:
  - 1. Birth certificate.
  - 2. Discharge papers. (DD 214)
  - 3. Incorporation papers.
  - 4. Surety bond.
  - 5. Application fee.
- B. Two photographs and two sets of fingerprints will be taken of the applicant at the Department of Public Safety at the time of application.
- C. A separate application must be filed by each partner of a partnership, each corporate officer of a corporation who is residing in Arizona, and each director, associate, manager, or employee of a business.
- D. If an application is withdrawn, the application fee, if any, shall not be refunded.

**Historical Note**

Former rule 1.

**R13-2-02. License**

- A. Each license shall contain the name and address of the licensee, name and address of the licensed business, and the number of the license. The license shall be effective for a 12-month period from the date of issuance, and these effective dates shall be noted on the license.
- B. Once a license has been assigned to a licensee, this license shall be neither assignable nor transferable. The license number, once assigned, shall not be reassigned to any other license.
- C. If a licensee wishes to surrender his license before the expiration date, the license fee or any part thereof shall not be refunded.
- D. The license shall be posted in a conspicuous place in the principal office.

**Historical Note**

Former rule 2.

**R13-2-03. Branch office certificate**

- A. Issuance of a branch office certificate shall be mandatory, and each certificate shall be posted in a conspicuous place in the branch office. The license number under which a branch office certificate is issued shall be noted on the certificate along with the name and address of the license, name of the business and address of the branch office, and the effective dates of the branch office certificate (these dates shall run concurrently with the effective dates of the license).
- B. All records of all business transacted at a branch office, and employee records of each branch office, shall be maintained by the licensee at his principal place of business. Such records shall be available for inspection by any officer of the Department of Public Safety.

**Historical Note**

Former rule 3.

**R13-2-04. Identification card**

- A. Under each license issued, a standard identification card as prescribed by the Director, shall be issued to the licensee, managers, officers, partners, directors, associates, and employees (except those engaged exclusively in clerical work) after these individuals have filed an application with the Department of Public Safety and have met the qualifications where applicable. These identification cards shall contain the following information: name, photograph, name and address of licensee, fingerprint, physical description, number of license, number of card, effective dates of the license, and the Arizona state seal. These identification cards are as follows:
  - 1. The licensee shall receive a white standard identification card, designated as a licensee card.
  - 2. Each associate, officer, or partner shall receive a green standard identification card.
  - 3. Each employee, associate, officer, or partner who will conduct investigations shall receive a blue standard identification card.
- B. Identification cards are neither assignable nor transferable and are valid only during the effective dates of the license under which the card has been issued, and valid only as long as the card holder is employed by, connected or associated with the licensee.
- C. All part-time employees shall obtain a standard identification card. All part-time employees employed by more than one licensee shall obtain an identification card under each license he is employed.
- D. If an identification card is lost or stolen, the Department of Public Safety shall be notified immediately and arrangements shall be made for issuance of a duplicate identification card.
- E. No badge whatsoever shall be utilized in conjunction with the license, branch office certificate or identification card.

**Historical Note**

Former rule 4.

**R13-2-05. Issuance of license, branch office certificate, identification card - original or renewal**

The applicant for an original license, branch office certificate or identification card, or renewal of same, will be notified by mail when the license, branch office certificate or identification card is ready for issuance. The applicant will appear in person at the Department of Public Safety (the issuance of an identification card

will necessitate applicant's presence to facilitate the fingerprinting and signing of the card). Upon payment of applicable fee, the license, branch office certificate or identification card will be issued.

**Historical Note**  
Former rule 5.

**R13-2-06. Denial of license**

- A. If the Director or his designate determines that an applicant for a license does not possess the qualifications as prescribed by A.R.S. § 32-2412, or grounds have been established as set forth under A.R.S. § 32-2414, the applicant will be notified by registered mail of the facts involved.
- B. The applicant will be notified of the date and time of the hearing which will be not less than 20 days after the applicant's receipt of hearing notification. Hearings will be held in compliance with A.R.S. §§ 41-1009, 41-1010, and 41-1011 before a hearing board or officer comprised of such person or persons as may be designated by the Director. If the applicant does not appear at the hearing, the applicant will be notified by registered mail of the hearing findings. In all cases assigned to the hearing board or officer for hearing, they shall prepare proposed findings of fact and conclusions of law in such form that they may be adopted as the Director's findings and conclusions in the case. Upon the filing of the proposed findings and conclusions with the Director, he may adopt them in their entirety, modify them, or may himself decide the case upon the record.

**Historical Note**  
Former rule 6.

**R13-2-07. Renewal of license, branch office certificate, identification card**

- A. The license shall be subject to renewal at the end of the 12-month period of effectiveness from the date of issuance. This 12-month period, or effective dates of the license shall also pertain to the branch office certificate and identification cards issued under each license. At this time it will be necessary for the licensee to fill out a License Renewal Form and return same by mail to the Department of Public Safety. Included in the Renewal Form shall be a statement to be signed by the licensee that no changes have been made in location of principal office, branch office, associates, directors, partners, managers, or employees holding identification cards, and that none of the aforementioned have been changed without the Director being notified in writing prior to the renewal date.
- B. If the license, branch office certificate, or identification card have not been renewed before this renewal date, they shall expire. The licensee or identification card holder shall be notified of the expiration by registered mail, at which time the license and all branch office certificates and identification cards issued under that license shall be returned to the Department of Public Safety for cancellation. That license and all branch office certificates and identification cards issued under that license shall be subject to seizure by any officer of the Department of Public Safety upon expiration.
- C. Once a license or identification card has expired, and the former licensee or identification card holder wishes to obtain a license or identification card, it will be necessary for this individual to file an application with the Department of Public Safety and the original application fee and license fee or identification card fee shall apply, where applicable.

**Historical Note**  
Former rule 7.

**R13-2-08. Revocation of license**

- A. If the Director or his designate determine grounds for revocation of a license as set forth under A.R.S. § 32-2427, the licensee will be notified by registered mail of the facts involved.
- B. The licensee will be notified of the date and time of the hearing on the revocation of the license, which will be not less than 20 days after the applicant's receipt of hearing notification. Hearings will be held in compliance with A.R.S. §§ 41-1009, 41-1010, and 41-1011 before a hearing board or officer comprised of such person or persons as may be designated by the Director. If the licensee does not appear at the hearing, the licensee will be notified by registered mail of the hearing findings.
- C. If a license is revoked by the Director, the former licensee cannot apply for reinstatement for a period of 12 months from the date of revocation. In all cases of revocation, it will be necessary to apply for reinstatement by filing an application form as prescribed by the Director, and all applicants for reinstatement are then subject to the original application fee and cost of license upon issuance.
- D. Upon revocation of a license, the license and all branch office certificates and identification cards issued under that license shall be returned to the Department of Public Safety immediately for cancellation and are subject to seizure by any officer of the Department of Public Safety.

**Historical Note**  
Former rule 8.

**R13-2-09. Suspension of license**

- A. If the Director or his designate determine grounds for suspension of a license as set forth under A.R.S. § 32-2427, the licensee will be notified by registered mail of the facts involved.
- B. The licensee will be notified of the date and time of the hearing on the suspension of the license, which will be not less than 20 days after the licensee's receipt of hearing notification. Hearings will be held in compliance with A.R.S. §§ 41-1009, 41-1010, and 41-1011 before a hearing board or officer comprised of such person or persons as may be designated by the Director. If the licensee does not appear at the hearing, the licensee will be notified by registered mail of the hearing findings.
- C. If a license is suspended by the Director, for a period designated by the Director, the license and all branch office certificates and identification cards issued under that license shall immediately be returned to the Department of Public Safety and are subject to seizure by an officer of the Department of Public Safety. The license, branch office certificates, and identification cards will be held by the Department of Public Safety until the end of the suspension period, at which time these documents will be returned to the licensee.

**Historical Note**  
Former rule 9.

**R13-2-10. Employee records - business records**

Each licensee shall maintain at his principal place of business a file or record of the name, address, title, commencing date and date of termination on each partner, director, business associate, officer, manager, or employee of the principal office and branch office. Each licensee shall maintain at his principal place of business a file on all business transacted at each branch office. The aforementioned files and records shall be available for inspection by the Director or any officer of the Department of Public Safety, and copies and information pertaining thereto or contained therein shall be submitted to the Department of Public Safety upon request.

**Historical Note**  
Former rule 10.

**R13-2-11. Complaints**

Complaints shall be in writing on such forms as the Director may prescribe and shall be filed with the Department of Public Safety. A copy may be forwarded to the licensee against whom the complaint has been lodged at the discretion of the Director. If a complaint involves alleged violation of Arizona Revised Statutes, the Department of Public Safety shall institute an investigation to ascertain if a violation has in fact occurred. When an investigation indicates that there has in fact been a violation of the Arizona Revised Statutes or rules and regulations contained herein, and the Director or his designate determine grounds for suspension or revocation of the license, procedure as outlined in R13-2-08 and R13-2-09 will be followed.

**Historical Note**

Former rule 11.

**R13-2-12. Business and employee names**

- A.** The name of the licensed business shall not include "United States", "U.S.", "Federal", "State of Arizona", or any name to

associate the business with any other governmental agency or law enforcement agency. The use of the words "corporation", "corp.", "incorporated", or "inc." will not be approved for an individual or partnership license unless corporate papers have been filed with the Corporation Commission. Similar business names of licensed firms will not be approved.

- B.** The licensee, business associates, and employees will do business and present themselves under the name used on their application and identification card. No fictitious names will be approved for use on identification cards.
- C.** The licensed business shall do all business under the name and address which is on file with the Director and which is noted on the license. This business is to include: name on letterhead and all stationery, all advertising, formal contracts entered into with clients, payroll and reports to clients.

**Historical Note**

Former rule 12.

**TITLE 13. PUBLIC SAFETY****CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY -  
TOW TRUCKS**

(Authority: A.R.S. § 28-1007 et seq.)

**ARTICLE 1. GENERAL PROVISIONS**

## Section

R13-3-101. Definitions

**ARTICLE 2. TOW TRUCK PERMITS**

## Section

R13-3-201. Permit required

R13-3-202. Permit application

R13-3-203. Inspection by the Department

R13-3-204. Permit suspension and application refusal

**ARTICLE 3. TOW TRUCK SPECIFICATIONS**

## Section

R13-3-301. Capacities and specifications of towing equipment

R13-3-302. Tow truck load limitations

R13-3-303. Prohibition of unauthorized operation

R13-3-304. Light duty tow trucks

R13-3-305. Medium duty tow trucks

R13-3-306. Heavy duty tow trucks

R13-3-307. Class "X" tow trucks

R13-3-308. Service trucks

**ARTICLE 4. TOW TRUCK EQUIPMENT  
SPECIFICATIONS**

## Section

R13-3-401. General tow truck lighting and equipment

R13-3-402. Tow truck components must be in good operating condition

**ARTICLE 5. QUALIFICATIONS OF TOW TRUCK  
OPERATORS**

## Section

R13-3-501. Chauffeurs license, skills, and knowledge required

**ARTICLE 6. ENFORCEMENT OF RULES AND  
REGULATIONS**

## Section

R13-3-601. Revocation or suspension of permit

R13-3-602. Grounds for suspension of permit

R13-3-603. Grounds for revocation of permit

R13-3-604. Appeals from tow truck enforcement action

**ARTICLE 1. GENERAL PROVISIONS****R13-3-101. Definitions**

Words and phrases not defined hereinafter shall be consistent with definitions in Title 28, Arizona Revised Statute.

1. "Accident recovery work" means the towing or removal of a vehicle involved in an accident upon any highway or roadway and is damaged to the extent that an investigation by a law enforcement agency is required.
2. "Department" means the Arizona Department of Public Safety.
3. "Director" means the Director of the Department of Public Safety.
4. "Permit" means the Department of Public Safety tow truck permit inspection sticker required on all tow trucks.
5. "Power operated winch" means a winch operated by power including, but not limited to, power take-off, hydraulic, or electric.

6. "Tow truck" means a motor vehicle which is altered or designed for, and used in the business of towing vehicles by means of a flat bed or other specially designed truck that is equipped with a tow sling, tow bar, tow plate or wheel lift apparatus, attached to the rear of the truck; or a crane or hoist that is attached to the bed or frame of the tow truck. Wrecker, garage tow truck, and slide back or roll back car carriers are synonymous and shall be termed "Tow Truck".

7. "Towing service" means the transportation upon the public streets and highways of the state of Arizona of damaged, disabled, unattended or abandoned vehicles together with personal effects and/or cargo by tow trucks. Wrecker service, tow car service, and garage tow truck service are synonymous and shall be termed "Towing Service".

**Historical Note**

Former rules 2.0 - 2.08; Former Section R13-3-01 repealed, former Section R13-3-02 renumbered and amended as Section R13-3-101 effective September 26, 1985 (Supp. 85-5).

**ARTICLE 2. TOW TRUCK PERMITS****R13-3-201. Permit required**

A permit of authorization must be obtained from the Department before a tow truck is operated for the purpose of towing vehicles.

**Historical Note**

Former rule 3.0; Former Section R13-3-11 renumbered and amended as Section R13-3-201 effective September 26, 1985 (Supp. 85-5).

**R13-3-202. Permit application**

- A. Applications for permits shall be made under oath to the Department of Public Safety in writing upon forms prescribed and furnished by the Department. The application shall contain all information required therein and shall be submitted to the Tow Truck Section, Arizona Department of Public Safety, P.O. Box 6638, Phoenix, Arizona, 85005. The Department shall be notified within ten days of any change of information supplied on the original application.
- B. In filing the application, the applicant expressly agrees, under penalty of suspension or revocation of his/her permit(s), that:
  1. All rules and regulations set forth herein will be followed.
  2. Any person operating a tow truck for his/her company will have the necessary experience and qualifications to operate a tow truck in the manner required by these rules and regulations.
- C. The Department shall issue a permit upon determining that the application was made and filed in good faith, that all submitted information is accurate, that the applicant and the applicant's towing equipment have met the minimum requirement established in law and in these rules and regulations. The Department may deny the application if any of the above conditions are not satisfied.
- D. If at any time a tow truck is sold, leased or otherwise disposed of, the tow truck owner shall notify the Department of the disposition of the truck and the permit issued for said truck shall immediately become null and void. Any person having subsequent control over said truck shall make application to the



Department before operating said tow truck as a tow truck within the state.

#### Historical Note

Former rules 3.01 - 3.01.03; Former Section R13-3-12 renumbered and amended as Section R13-3-202 effective September 26, 1985 (Supp. 85-5).

#### R13-3-203. Inspection by the Department

- A. As soon as possible after the tow truck application has been filed, the Department may cause a physical inspection of the tow truck to be conducted. If the tow truck is found to conform to the minimum standards of the class permit requested and the application meets the requirements as set forth in these rules and regulations, and the application is approved, said tow truck shall be issued a permanent identification number by the Director. This identification number shall be affixed inside the cab of the tow truck by the Department inspector.
- B. In addition to the identification number, the tow truck shall be issued an annual permit in the form of an inspection sticker which shall contain such pertinent information as is deemed necessary by the Department. This inspection sticker shall be conspicuously displayed on the outside lower right-hand corner of the truck's front windshield.
- C. Annual inspections shall be conducted to determine the condition of the tow truck. A tow truck meeting the minimum standards for its class may be granted a renewal of the permit.
- D. Nothing in these rules shall serve to prohibit any peace officer from conducting an inspection without notice to determine the fitness of a tow truck at any reasonable time and place.
- E. If at any time a tow truck is found to be in need of repair to meet the minimum standards for its class, the annual permit shall be suspended and the tow truck shall be removed from service until such repairs are effected and the tow truck is inspected and recertified by the Department.

#### Historical Note

Former rules 3.02 - 3.02.05; Former Section R13-3-13 renumbered and amended as Section R13-3-203 effective September 26, 1985 (Supp. 85-5).

#### R13-3-204. Permit suspension and application refusal

- A. A tow truck permit may be suspended or an application may be refused for any one or more of the following conditions:
  - 1. Failure to supply true and accurate information on the permit application and inspection form.
  - 2. Failure to comply with any of these rules and regulations.
  - 3. Failure to submit to a tow truck inspection (refer to R13-3-203).
  - 4. Failure to display on the side of the tow truck, the business name, town and phone number of the tow truck company. The lettering used shall be in bold contrasting colors and at least three inches in height.

#### Historical Note

Former rules 3.02.06 - 3.02.10; Former Section R13-3-14 renumbered and amended as Section R13-3-204 effective September 26, 1985 (Supp. 85-5).

### ARTICLE 3. TOW TRUCK SPECIFICATIONS

#### R13-3-301. Capacities and specifications of towing equipment

- A. The minimum standards for each class of tow truck permits, referred to throughout these rules and regulations, shall be determined solely by the manufacturer's specifications for the capabilities and capacities of the tow trucks and all towing equipment, except that the Department may consider other evidence of such capabilities and capacities when it reasonably

believes that the manufacturer's specifications overrate the tow truck's capacity.

- B. Each tow truck shall be equipped with only those winches and cranes that have been produced and constructed by a manufacturer of such equipment, and which regularly produces winches and cranes of guaranteed quality. However, a winch or crane will not be prohibited by this Section if the tow truck owner submits to the Department certification from one reputable testing laboratory, regularly engaged in the testing of such equipment or similar equipment, indicating that the capacity of the winch or crane is not less than the class for which application has been made. All costs of such testing and certification shall be at the expense of the tow truck owner.

#### Historical Note

Former rules 4.0 - 4.02; Former Section R13-3-21 renumbered and amended as Section R13-3-301 effective September 26, 1985 (Supp. 85-5).

#### R13-3-302. Tow truck load limitations

No tow truck shall tow another vehicle unless the tow truck has a manufacturer's rating of 3/4 ton or higher, and the tow truck has been issued the appropriate permit required by these rules and regulations. Trucks with a manufacturer's rating of less than one ton shall not be permitted to do accident recovery work.

#### Historical Note

Former rule 5.0; Former Section R13-3-22 renumbered without change as Section R13-3-302 effective September 26, 1985 (Supp. 85-5).

#### R13-3-303. Prohibition of unauthorized operation

- A. No person shall stop at the scene of an accident or at or near a disabled vehicle for the purpose of soliciting an engagement for towing service, either directly or indirectly, nor furnish any towing service, unless he/she has been summoned to such scene by the owner or operator of a disabled vehicle or has been requested to perform such services at the request of a law enforcement officer or agency pursuant to that agency's procedures.
- B. Tow truck operators shall not, without the express authorization of the responsible investigating agency, move any vehicle from a public highway or street or from any public property when such vehicle is abandoned, stolen, damaged, or left unattended, except that, notwithstanding the conditions imposed in R13-3-303(A) of these rules and regulations, operators may, in emergency cases, slide left, right, or otherwise move a vehicle damaged as the result of an accident, if the removal is for the purpose of extracting a person from the wreckage or to remove an immediate hazard to life and/or property. In no event shall the movement be more than is reasonable and necessary.

#### Historical Note

Former rules 6.0 - 6.02; Former Section R13-3-23 renumbered and amended as Section R13-3-303 effective September 26, 1985 (Supp. 85-5).

#### R13-3-304. Light duty tow trucks

- A. At no time shall any light duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.
- B. Light duty minimum specifications:
  - 1. A gross vehicle weight rating of at least 8,000 pounds and rated by the manufacturer as one ton or more.
  - 2. A four-speed transmission or the equivalent.
  - 3. A power-assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.

4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
5. At least dual rear wheels and tires or the equivalent.
- C. Wrecker (crane) minimum specifications:
  1. Total boom capacity of at least four tons.
  2. Power-operated winch with a capacity of at least four tons.
  3. Hand or electric-powered winches will not be used for accident recovery work.
  4. Winch power is determined by a single line pull.
  5. At least 100 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
  6. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
- D. Light duty one car carrier minimum specifications:
  1. A gross vehicle rating of at least 8,000 pounds and rated by the manufacturer as one ton or more.
  2. A four-speed transmission or the equivalent.
  3. A power-assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
  4. A parking brake system separate from the service brake system which shall be maintained in good working condition.
  5. At least dual rear wheels and tires or the equivalent.
  6. A power-operated winch with a capacity of at least four tons with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
  7. A bed assembly of at least 3/16 inch steel plate or the equivalent and at least 15 feet in length and at least 7 feet in width.
  8. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
  9. If a tow plate (stinger) is attached to the rear of the tow truck bed or frame and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 1,500 pounds.
7. At least 35 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
- C. Double boom wrecker (crane) minimum specifications:
  1. Total boom capacity of at least ten tons.
  2. Double booms and lines, each to operate jointly and/or independently.
  3. Power-operated winches with a combined capacity of at least ten tons.
  4. At least two winches of not less than five tons each.
  5. Winch power is determined by a single line pull.
  6. At least 150 feet of 3/8 inch diameter wire rope per winch drum with a breaking strength of 12,200 pounds or more.
- D. Single boom wrecker (crane) minimum specifications:
  1. Boom capacity of at least ten tons.
  2. Boom line winch with a minimum capacity of at least ten tons, with at least 150 feet of 1/2 inch diameter wire rope with a breaking strength of 21,400 pounds or more.
  3. Deck winch minimum capacity of at least ten tons with at least 150 feet of 1/2 inch diameter wire rope with a breaking strength of 21,400 pounds or more.
- E. Hydraulic wrecker assemblies minimum specifications:
  1. Boom capacity of at least ten tons.
  2. Boom line(s) which operate jointly and/or independently.
  3. Hydraulically operated winches with a combined capacity of at least ten tons, with a deck winch minimum capacity of at least ten tons except that one single boom line winch may be used instead, if it has the capacity of at least ten tons and is used with a deck winch with a minimum capacity of at least ten tons.
  4. At least 150 feet of 3/8 inch diameter wire rope per winch drum with a breaking strength of 12,200 pounds or more.
  5. At least 35 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
- F. Medium duty two car carrier minimum specifications:
  1. A gross vehicle weight of at least 15,000 pounds and rated by the manufacturer as two tons or more.
  2. A four-speed transmission or the equivalent.
  3. A power assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
  4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
  5. At least dual rear wheels and tires or the equivalent.
  6. A hydraulically operated winch of at least 6 tons, with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
  7. A bed assembly of at least 1/4 inch steel plate or the equivalent and at least 17 feet in length and at least 7 feet in width.
  8. At least 30 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
  9. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 3,500 pounds.
- G. Medium duty three car carrier minimum specifications:
  1. A gross vehicle weight of at least 22,000 pounds.
  2. A four-speed transmission or the equivalent.
  3. A power-assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.

#### Historical Note

Former rules 7.0 - 7.03; Former Section R13-3-24 renumbered and amended as Section R13-3-304 effective September 26, 1985 (Supp. 85-5).

#### R13-3-305. Medium duty tow trucks

- A. At no time shall any medium duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.
- B. Medium duty minimum specifications:
  1. A gross vehicle weight rating of at least 15,000 pounds and rated by the manufacturer as one and one-half tons or more.
  2. A four-speed transmission or the equivalent.
  3. A power-assisted service brake system adequate to control the movement of and to stop and hold the combination of vehicles under all conditions and on any grade on which they are operated.
  4. When towing vehicles equipped with an air brake system, shall have the equipment necessary to join the air systems together in order to activate the brakes from the cab of the tow truck.
  5. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
  6. At least dual rear wheels and tires or the equivalent.

4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
  5. At least dual rear wheels and tires or the equivalent.
  6. A hydraulically operated winch of at least 6 tons, with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
  7. A bed assembly of at least 1/4 inch steel plate or the equivalent and at least 17 feet in length and at least 7 feet in width, a bed assembly over the cab of at least 3/16 inch steel plate or the equivalent and at least 10 feet in length and at least 7 feet in width.
  8. At least 30 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
  9. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 3,500 pounds.
2. Double booms and lines each to operate jointly and/or independently.
  3. Power-operated winches combined capacity of at least 25 tons.
  4. At least two winches of at least 12 1/2 tons capacity each.
  5. Winch power is determined by a single line pull.
  6. At least 200 feet of 9/16 inch diameter wire rope with a breaking strength of 27,000 pounds or more.

**D. Single boom wrecker (crane) minimum specifications:**

1. Boom line winch with a minimum capacity of at least 25 tons with at least 200 feet of 3/4 inch diameter wire rope with a breaking strength of at least 51,200 pounds or more.
2. Deck winch with a minimum capacity of at least 15 tons with at least 200 feet of 5/8 inch diameter wire rope with a breaking strength of at least 33,400 pounds or more.

**E. Hydraulic wrecker assemblies minimum specifications:**

1. Boom capacity of at least 25 tons.
2. Boom line(s) which operate jointly and/or independently.
3. Hydraulically operated winches with a combined capacity of at least 25 tons, except that one single boom line winch may be used instead if it has a capacity of at least 25 tons and is used with a deck winch with a minimum capacity of 15 tons.
4. Double winches on a single boom with a minimum of 200 feet of 5/8 inch diameter wire rope per winch with a breaking strength of 27,000 pounds or more.
5. A single winch on a single boom with a minimum of 200 feet of 3/4 inch diameter wire rope with a breaking strength of 33,400 pounds or more.

**F. Heavy duty car carrier minimum specifications:**

1. Gross vehicle weight of at least 35,000 pounds, rated by the manufacturer as 3 1/2 tons or more.
2. Tandem rear axles equipped with dual rear wheels and tires or the equivalent.
3. A five-speed main transmission or the equivalent.
4. Full air brakes.
5. Air brakes so constructed and controlled as to permit locking of all rear wheels (air lock).
6. A brake system equipped with truck-tractor protection valve.
7. A dependable parking brake system.
8. A hydraulically operated winch with a minimum capacity of ten tons, and at least 50 feet of 7/16 inch wire rope with a breaking strength of 33,400 pounds or more.
9. A bed assembly of at least 3/8 inch steel plate or the equivalent, and at least 21 feet in length and at least 7 feet in width. A bed assembly over the cab of at least 3/16 inch steel plate or the equivalent and at least 10 feet in length and at least 7 feet in width.
10. At least 40 feet of 1/2 inch diameter chain with hooks with a safe working load of 4,240 pounds or more.
11. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the tow plate (stinger) must have a tow bar capacity of at least 5,000 pounds.

**Historical Note**

Former rules 8.0 - 8.04; Correction, subsection C. Paragraph 4. not included in original publication (Supp. 77-1).

Former Section R13-3-25 renumbered and amended as Section R13-3-305 effective September 26, 1985 (Supp. 85-5).

**R13-3-306. Heavy duty tow trucks**

- A.** At no time shall any heavy duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly, provided that the manufacturer's weights are not in excess of the legal limitations of A.R.S. §§ 28-1008 and 28-1009.
- B.** Heavy duty minimum specifications:
  1. A gross vehicle rating of at least 35,000 pounds (usually rated by the manufacturer as 3 1/2 tons).
  2. Tandem rear axles, equipped with dual rear wheels and tires, or the equivalent.
  3. A five-speed main transmission or the equivalent.
  4. A brake system equipped with a truck-tractor protection valve.
  5. Full air brakes so constructed and controlled as to permit locking of all rear wheels (air lock).
  6. A dependable parking brake system separate from the service brake system which shall be maintained in good working order at all times.
  7. Required accessories:
    - a. Trailer hitch: pintle hook type or the equivalent.
    - b. one semi-trailer converter dolly or fifth-wheel mount. Option: If a converter dolly or fifth-wheel mount is not owned by the wrecker owner, he must have one immediately available at all times. Documentary proof must be filed with the Department for the above option when the application for permit is filed.
    - c. Chain with hooks meeting the following specifications:
      - i. At least 35 feet of 3/8 inch diameter chain with a safe working load of 2,450 pounds or more.
      - ii. At least 20 feet of 5/8 inch diameter chain with a safe working load of 6,375 pounds or more.
    - d. Air lines: At least 75 feet of auxiliary air lines with the necessary fittings in two sections of appropriate length. These sections will connect to the air supply of the towed vehicle for the purpose of brake application.
- C.** Double boom wrecker (crane) minimum specifications:
  1. A total capacity of at least 25 tons.

**Historical Note**

Former rules 9.0 - 9.05.03; Correction, subsection (C)(3) and (4) not included in original publication (Supp. 77-1).

Former Section R13-3-26 renumbered and amended as Section R13-3-306 effective September 26, 1985 (Supp. 85-5).

**R13-3-307. Class "X" tow trucks**

- A. Class "X" tow trucks shall not be used to render assistance or for accident recovery work but may be used for the purpose of towing vehicles from one location to another.
- B. At no time shall any Class "X" tow truck exceed its manufacturer's gross vehicle weight or the rated capacity of the wrecker assembly.
- C. Class "X" truck minimum specifications:
  1. A gross vehicle weight rating of at least 7,500 pounds and rated by the manufacturer as a 3/4 ton or more.
  2. A four-speed transmission or the equivalent.
  3. Dual rear wheels or the equivalent.
  4. A boom (crane) with a boom capacity of at least three tons and a single line winch capacity of at least three tons.
  5. Wire rope of at least 5/16 inch diameter with a breaking strength of 8,520 pounds or more.
  6. At least 20 feet of 5/16 inch diameter chain with hooks, with a safe working load of 1,750 pounds or more.
  7. Any class X roll back or slideback car carriers must meet the minimum specifications consistent with light, medium or heavy duty classes.
  8. Equipment required is that contained in R13-3-401(E) through (P), (R), (V), (X), (Z), (AA) and R13-3-402.

**Historical Note**

Former rules 10.0 - 10.04; Former Section R13-3-27 renumbered and amended as Section R13-3-307 effective September 26, 1985 (Supp. 85-5).

**R13-3-308. Service trucks**

- A. Service trucks (Class S) shall not be used for accident recovery work but may be used to render assistance to vehicles.
- B. At no time shall any service truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.
- C. Service truck minimum specifications:
  1. A gross vehicle weight rating of at least 7,500 pounds and rated by the manufacturer as a three-quarter ton or more.
  2. A four-speed transmission or the equivalent.
  3. Dual rear wheels or the equivalent.
  4. A boom (crane) with a:
    - a. Boom capacity of at least three tons and single line winch capacity of at least three tons.
    - b. Wire rope shall be at least 5/16 inch diameter with a breaking strength of at least 8,520 pounds or more.
    - c. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
  5. Accessories. Refer to R13-3-401 and R13-3-402 under General Tow Truck Lighting & Equipment Specifications for complete list of accessories required.

**Historical Note**

Former rules 11.0 - 11.06; Former Section R13-3-28 renumbered as Section R13-3-308 effective September 26, 1985 (Supp. 85-5).

**ARTICLE 4. TOW TRUCK EQUIPMENT SPECIFICATIONS****R13-3-401. General tow truck lighting and equipment**

- A. Tow trucks shall comply with lighting and equipment requirements for trucks contained in Title 28, A.R.S. Additional equipment requirements relating specifically to tow trucks are contained in the following pages. If more detailed information is needed, a copy of Title 28, A.R.S. may be purchased from the Motor Vehicle Division of the Arizona Department of Transportation.

- B. Warning lamps & lights required: Warning lights are to be used only at the scene of the service or in towing a vehicle which is damaged to the extent that it presents a hazard to other users of the street or highway. No red light shall be visible from in front of a vehicle.
  1. Flashing type lamps. (Emergency top mount lights):
    - a. The color shall be amber to the front, amber or red to the rear with at least two lamps of at least 6 inches in diameter having a lens surface of at least 28.26 square inches each.
    - b. These lamps are to be mounted as high as practical and with their light visible from the front and rear for a distance of 500 feet under normal atmospheric conditions.
  2. Warning lamps may be wired independently or in conjunction with stop and signal lamps. If tail lamps are also incorporated, then either a separate bulb or a double contact-type bulb shall be used.
- C. A rotating beacon may be used in lieu of the two flashing lamps.
  1. At least one beacon is required with amber lens or amber to the front and red to the rear.
  2. The beacon shall be mounted as high as practical with its light visible for 360 degrees for a distance of 500 feet under normal atmospheric conditions.
  3. Each beacon shall have at least four seal beams or at least two beacons with two seal beams each.
  4. The lens size of the beacon shall be at least 9 inches in diameter at its narrowest point, and 5 inches in height with a lens surface of 141.2 square inches. Two smaller beacons may be used only if the total square inches of both at least equal that required of the one above.
  5. Beacons shall be wired independently of all other electrical circuits.
  6. Strobe lights may be used in lieu of rotating beacons or flashing lights.
- D. Work lamps:
  1. The lens shall be clear.
  2. The lens' diameter shall be at least four inches in diameter.
  3. There shall be at least two work lamps used in the system.
  4. Lamps shall be mounted so as to illuminate the area directly behind the tow truck for a distance of at least 50 feet.
  5. Work lamps shall be wired so they are not dependent on the position of the gear shift.
  6. Work lamps shall not be in operation while the tow truck is in forward motion.
- E. Portable tail, stop and signal lamps required:
  1. At least two separate lamps with mounting brackets or mounting clips.
    - a. The lens shall be red in color.
    - b. The lens' diameter shall be at least three inches each.
  2. Connections shall be made with suitable male and female connectors and flexible rubber or plastic cord. The portable lamps may be wired permanently to the truck's electrical system if a suitable bracket for both cord and lamp is provided.
    - a. All cord shall be measured from rear of tow truck.
      - i. Light duty, service duty, and Class "X": cord length of at least 25 feet.
      - ii. Medium duty: cord length of at least 30 feet.
      - iii. Heavy duty: cord length of at least 75 feet.
    - b. Lamp cords shall be flexible rubber or plastic containing at least four conductors of at least 16 gauge

- in a single manufactured cable. Single wires taped together are prohibited.
3. Additional portable lamps required on heavy duty tow trucks.
    - a. Clearance lamps shall be incorporated with the portable lamp system and shall be mounted on the sides at the rear of a towed vehicle.
    - b. Clearance lamps shall have red lens and shall be of the type with a visibility range of at least 180 degrees.
    - c. Clearance lamps may be permanently wired to the portable lamp system or may be connected with suitable male and female electrical connectors to the tow truck system.
    - d. Electrical ground connections shall be made through the power supply cable in all portable lamp systems. Systems dependent on a towed vehicle for grounding are not acceptable.
- F.** Use of portable lamps:
1. Tow truck operators are required to affix two tail lights, two stop lights and two signal lights to the rear-most vehicle of any train of vehicles any time of day or night that the vehicles are towed or operated, on any street or highway.
  2. When a combination of vehicles is operated during the time that lighted lamps are required, there shall be exhibited on the rear of any towed vehicles at least two red tail lights.
- G.** Head lamps: See A.R.S. § 28-924.
- H.** Tail lamps: See A.R.S. § 28-925.
- I.** Reflectors: See A.R.S. §§ 28-926, 28-929, and 28-932.
1. All tow trucks shall have reflectors and clearance lamps on the front, sides and rear as required as by A.R.S. §§ 28-926, 28-929, and 28-932.
  2. Color mounting and visibility of reflectors, clearance lamps and sidemarker lamps shall be consistent with A.R.S. §§ 28-931, 28-932, and 28-933.
- J.** Stop lamps: two See A.R.S. § 28-927. Meeting with specifications outlined under A.R.S. § 28-93(A)(1).
- K.** Directional signals: See A.R.S. § 28-939.
1. All tow trucks are required to be equipped with electrical flashing directional signals.
  2. Directional signals shall be connected in a manner so as to permit "4-way" flash.
- L.** Horns: See A.R.S. § 28-954.
- M.** Mufflers: See A.R.S. § 28-955.
- N.** Mirrors: See A.R.S. § 28-956.
1. All tow trucks are to be equipped with two side rear-vision mirrors, one at each side.
  2. The minimum size per mirror surface is 24 square inches.
- O.** Windshield and windshield wipers: See A.R.S. § 28-957.
- P.** Certain vehicles must carry flares or other warning devices, i.e. three red fusees (15 minutes), three electric lanterns or three portable reflectors. See A.R.S. § 28-960.
- Q.** Clearance lamps and side reflectors:
1. All tow truck assemblies, regardless of their width, shall have clearance lamps and side reflectors as described in A.R.S. § 28-929(2).
  2. two amber cab clearance lamps are required, showing amber to the front and mounted on the outside edge of the cab.
  3. Color, mounting, and visibility of reflectors, clearance lamps, and sidemarker lamp shall be consistent with A.R.S. §§ 28-931, 28-932, and 28-933.
- R.** Rear fender splash guards: See A.R.S. § 28-958.01.
- S.** Shovel and broom:
1. All tow trucks shall have as part of their equipment a shovel and a broom, kept in good condition.
  2. The shovel shall be at least a No. 2 and shall be a square point type.
  3. The broom shall be a push broom and have at least a 14-inch head.
- T.** Oil-absorbing material: All trucks operated in metropolitan areas shall have the following: Sand or a commercial oil and grease absorbent, or at least 1155 cubic inches of material or the equivalent of a five-gallon can of material which can be carried in a weatherproof container.
- U.** Electric lantern or flashlight: All tow trucks shall have at all times in good working condition a battery-powered electric lantern, or a two-cell flashlight in lieu of an electric lantern.
- V.** Fire extinguishers: Each tow truck shall be equipped with either:
1. A fire extinguisher having an Underwriters Laboratories rating of 5 B:C or more, or
  2. Two fire extinguishers, each of which has an Underwriters Laboratories rating of 4 B:C or more.
- W.** Steering wheel clamp: A steering wheel clamp or its equivalent shall be of sufficient strength to adequately lock the steering mechanism of a towed vehicle in a straight forward position.
- X.** Tow sling or tow plate:
1. Every tow truck shall be equipped with a tow sling, plate or bar, that is structurally adequate for any weight drawn. Slings or plates shall be properly and securely mounted on the tow truck without excessive slack.
  2. The tow plates, slings and tow-bears shall be securely attached to the tow vehicle by means of chains and hooks. Attachment chains will have a capacity equal to the weight of the towed vehicle. At least two chains shall be used.
  3. There shall be one snatch block of matched size to the rating of the wrecker assembly.
- Y.** Attachment chains ("J" hooks):
1. Every towed vehicle shall be coupled to the tow truck with attachment chains of a structural strength equal to the gross weight of the towed vehicle.
  2. Attachment chains shall be securely attached to the towing and towed vehicle with no more slack left in the chain or cable than is necessary to permit proper turning.
- Z.** Tire chains (skid chains):
1. Tow trucks are to be equipped with one set of tire chains for at least one driving wheel on each side whenever ice or snow makes driving conditions hazardous.
  2. Chains shall be maintained in good condition.
- AA.** Tire equipment:
1. Tires supporting the tow truck should be of such size and ply that the sum of their capacity as shown by the particular manufacturer shall at least equal the gross laden weight of the tow truck.
  2. Tire wear and replacement:
    - a. No tow truck shall be operated on any tire that has fabric exposed through the tread or sidewall.
    - b. Any tire on the front wheels of the tow truck shall have a tread groove pattern depth of at least 4/32 of an inch when measured at any point on a major tread groove.
    - c. Except as provided in subparagraph (b) of this Section, tires shall have a tread groove pattern depth of at least 2/32 of an inch when measured at any point on a major tread groove.

- d. The Department tow truck inspector shall make the final decision concerning any question arising under this Section.

#### Historical Note

Former rules 12.0 - 12.17.02.02; Former Section R13-3-35 renumbered and amended as Section R13-3-401 effective September 26, 1985 (Supp. 85-5).

#### **R13-3-402. Tow truck components must be in good operating condition**

All tow truck components (i.e., winches, booms, cables, cable clamps, thimbles, sheaves, guides, controls, blocks, slings, chains, hooks, and hydraulic components), are to be maintained in good condition at all times. Cable fittings for hooks, slings, etc., shall be assembled by factory recommendations and specifications. All portable equipment (i.e., shovel, broom, reflectors, flashlights, fire extinguisher, etc.), shall be permanent accessories and be available on the truck at all times.

#### Historical Note

Former rule 12.18; Former Section R13-3-36 renumbered and amended as Section R13-3-402 effective September 26, 1985 (Supp. 85-5).

### **ARTICLE 5. QUALIFICATIONS OF TOW TRUCK OPERATORS**

#### **R13-3-501. Chauffeurs license, skills, and knowledge required**

- A. No tow truck owner shall operate or permit anyone to operate a tow truck until the following requirements are fulfilled:
1. Tow truck operators shall have a valid Class "4" or "5" Arizona Chauffeurs license. A.R.S. § 28-414(B).
  2. Every operator shall be competent by reason of experience or training to safely operate the type of tow truck or tow trucks allowed by permit.
  3. Every operator shall possess the knowledge and ability to rig, move, pick up and transport vehicles without increasing the original damage insofar as possible.
  4. Every operator shall be free from the influence of alcoholic beverages, narcotics, or dangerous drugs when on duty.
  5. No tow truck company or individual shall operate a tow truck without displaying proof of current insurance in accordance with A.R.S. §§ 28-1251, 28-1253, 28-1255. The tow truck company shall submit proof of current insurance to the Department of Public Safety upon demand.
- B. Every owner and operator shall be familiar with the laws and rules and regulations pertaining to tow trucks.

#### Historical Note

Former rules 13.0 - 13.05; Former Section R13-3-40 renumbered and amended as Section R13-3-501 effective September 26, 1985 (Supp. 85-5).

### **ARTICLE 6. ENFORCEMENT OF RULES AND REGULATIONS**

#### **R13-3-601. Revocation or suspension of permit**

- A. Any person who violates any rule or Regulation herein may have his/her tow truck permit(s) revoked or suspended by the Director or his authorized subordinate. Such action shall be pursuant to the provisions of A.R.S. § 41-1013.
- B. In cases where, in the opinion of the Director or his representative, there is a compelling public necessity, the Director or his authorized representative may waive the enforcement of any of these rules and regulations, but all such waivers shall be

treated separately for each party and each rule or regulation, and there shall be no collective waivers.

#### Historical Note

Former rules 14.0 - 14.02; Former Section R13-3-45 renumbered and amended as Section R13-3-601 effective September 26, 1985 (Supp. 85-5).

#### **R13-3-602. Grounds for suspension of permit**

A tow truck permit may be suspended for up to one year under the following conditions:

1. If the owner or operator violates any rule or regulation herein which does not warrant revocation. The period of suspension shall be determined according to the severity and frequency of the violation.
2. If the owner knowingly continues to employ an operator who has been convicted of more than two moving violations under A.R.S. Title 28 during a one-year period. The suspension shall be for a period of one year from the date of the third conviction. There shall be no suspension for a violation of this Section unless it is proven that the owner knew or should have known of the operator's convictions.

#### Historical Note

Former rules 15.0 - 15.01; Former Section R13-3-46 renumbered and amended as Section R13-3-602 effective September 26, 1985 (Supp. 85-5).

#### **R13-3-603. Grounds for revocation of permit**

A tow truck permit may be revoked under the following conditions:

1. If, while engaged in the operation of a tow truck, an owner or operator is convicted of A.R.S. § 28-692 (driving while under the influence of narcotics, dangerous drugs or intoxicating beverages) or A.R.S. § 28-693 (reckless driving), or has had his/her license to drive suspended under A.R.S. § 28-691 (Implied Consent Law), A.R.S. § 28-473 (License Suspension or Revocation) or A.R.S. § 28-1203 (Suspended, No Insurance, FR).
2. If it is discovered that a permit was issued on information supplied by the applicant that the applicant knew or should have reasonably known was false or inaccurate.
3. If the owner or operator refuses to make prompt restitution for any avoidable damage caused by his failure to comply with R13-3-501(A)(3) of these rules and regulations.
4. If the owner or an operator habitually violates any rule or Regulation herein or A.R.S. § 9-499.05.

#### Historical Note

Former rules 16.0 - 16.01.05; Former Section R13-3-47 renumbered and amended as Section R13-3-603 effective September 26, 1985 (Supp. 85-5).

#### **R13-3-604. Appeals from tow truck enforcement action**

- A. Any person who has had a permit denied, or who has suffered any penalty under these rules and regulations, shall have the right to a hearing. A temporary suspension of operation pursuant to Section R13-3-203(E) is not a penalty, and no hearing shall be provided for the persons affected.
- B. The hearing shall be conducted pursuant to A.R.S. §§ 41-1009, 41-1010, 41-1011, and 41-1013.
- C. The Director or his authorized representative may, at his discretion, combine requests for hearings into one hearing where there are common parties or issues.
- D. The hearing shall be conducted by a tow truck hearing board, comprised of the following members: Chairman - Commander of the Special Services Division of the Department, the affected District Commander of the Department, and one representative of the tow truck industry currently permitted and

engaged in the business of towing, to be appointed by the Director.

- E.** Any notice required to be given to any party or person shall be in writing pursuant to A.R.S. § 41-1009. Such notice shall be deemed sufficient and complete when deposited in the United States mail, addressed to the last known address of the party to receive the notice as evidenced by the most recent application on file with the Department.

- F.** Within 35 days after the date of the final decision rendered in any hearing, an appeal may be taken to the Superior Court of the county in which any of the conditions of A.R.S. § 12-905(B) apply. Appeals to the Superior Court shall be governed by the provisions of A.R.S. • 12-901 et seq.

**Historical Note**

Former rules 17.0 - 17.08; Former Section R13-3-48  
renumbered and amended as Section R13-3-604 effective  
September 26, 1985 (Supp. 85-5).

## Arizona Peace Officer Standards and Training Board

**TITLE 13. PUBLIC SAFETY****CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD**

(Authority: A.R.S. § 41-1822(1) et seq.)

*The Arizona Law Enforcement Officer Advisory Council's name was changed by Laws 1994, Ch. 324, § 1, effective July 17, 1994. All references to the Council were changed to reflect the new Board. (Supp. 94-3).*

**ARTICLE 1. GENERAL PROVISIONS**

*New Article 1 consisting of Sections R13-4-101 through R13-4-118 adopted effective March 23, 1989.*

*Former Article 1 consisting of Sections R13-4-01 through R13-4-08 repealed effective March 23, 1989.*

**Section**

- R13-4-101. Definitions
- R13-4-102. Internal Organization and Control of the Board
- R13-4-103. Certification of Peace Officers
- R13-4-104. Peace Officer Category Restrictions
- R13-4-105. Minimum Qualifications for Appointment
- R13-4-106. Background Investigation Requirements
- R13-4-107. Medical Requirements
- R13-4-108. Agency Records and Reports
- R13-4-109. Denial, Revocation, Suspension and Cancellation of Peace Officer Certified Status
- R13-4-110. Basic Training Requirements
- R13-4-111. Continuing Training Requirements
- R13-4-112. Proficiency Training Requirements
- R13-4-113. Firearms Qualification Requirements
- R13-4-114. Certified Instructor Requirements
- R13-4-115. Certified School Requirements
- R13-4-116. Academy Requirements
- R13-4-117. Grant Applications and Reimbursements
- R13-4-118. Hearings

**ARTICLE 2. CORRECTIONAL OFFICERS**

*Article 2, consisting of Sections R13-4-201 through R13-4-208, adopted effective December 16, 1992, filed June 16, 1992 (Supp. 92-2).*

- R13-4-201. Definitions
- R13-4-202. Uniform Minimum Standards for Appointment
- R13-4-203. Background Investigation
- R13-4-204. Records and Reports
- R13-4-205. Basic Training Requirements
- R13-4-206. Continuing Training
- R13-4-207. Firearms Qualification Requirements
- R13-4-208. Reinstatement and Re-employment of State Correctional Officers

**ARTICLE 1. GENERAL PROVISIONS****R13-4-101. Definitions**

In this Article, unless the context otherwise requires:

1. "Academy" means a certified school which conducts the basic peace officer course, specialty officer basic course or the limited reserve officer basic course.
2. "Agency" means a lawfully empowered law enforcement entity.
3. "Appointment" means the selection by an agency of a person to be a peace officer or peace officer trainee.
4. "Approved training program" means a course of instruction which has been approved by the Board for reimbursement.
5. "Cancellation" means the annulment of certified status.
6. "Certified" means approved by the Board as being in compliance with these rules.

7. "Denial" means the refusal of the Board to grant certified status.
8. "Limited correctional peace officer" means a peace officer who has authority only while employed by and on duty with the Arizona Department of Corrections, and only for the purposes of guarding, transporting, or pursuing persons under the jurisdiction of the Arizona Department of Corrections.
9. "Limited reserve officer" means a reserve officer with restricted duties except when under direct supervision.
10. "Medical consultant" means a physician employed by the Board who is a specialist in occupational medicine.
11. "Peace officer trainee" means a person recruited and appointed by an agency to attend an academy.
12. "Physician" means a person licensed to practice medicine in this or another state.
13. "Regular peace officer" means a full authority peace officer who is paid a salary.
14. "Reserve officer" means a full authority peace officer who is not paid a salary.
15. "Revocation" means the permanent withdrawal of certified status.
16. "School administrator" means an individual who has the primary responsibility for directing a certified school or approved training program.
17. "Service ammunition" means full performance loads equivalent in all respects to that carried on duty.
18. "Service handgun" means that particular handgun which the officer carries for use on duty.
19. "Specialty officer" means a peace officer whose authority is limited to enforcing specific sections of the Arizona Revised Statutes or Arizona Administrative Code, as specified by the appointing agency's statutory powers and duties.
20. "Suspension" means the temporary withdrawal of certified status for a period of time not to exceed one year.
21. "Termination" means the end of employment or service with an agency as a peace officer, either through removal, discharge, resignation, retirement or otherwise.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1).

Amended effective August 6, 1991 (Supp. 91-3). References to "Council" changed to "Board" (Supp. 94-3).

Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2).

**R13-4-102. Internal Organization and Control of the Board**

- A.** Scheduled meetings. The chairman shall designate the location, date and time of meetings. Notice and the agenda of the meeting shall be made public and provided to each Board member not less than five days in advance of the meeting.
- B.** Quorum. The following shall constitute a quorum for conducting business:
  1. On issues dealing with law enforcement, five members of the Board exclusive of members authorized to participate only in corrections business;
  2. On issues dealing solely with corrections, six members of the Board.



- C. Meeting agenda. Items for Board consideration must be submitted not later than ten days prior to the scheduled meeting to be placed on the agenda.
- D. Special meetings. Notice of meetings that are not regularly scheduled shall contain the purpose for the meeting. Except in the case of an emergency meeting declared by the Governor or the Chairman, the Chairman shall give at least five days' written notice of the meeting to each member of the Board specifying the location, date and time.
- E. Subcommittees. The Chairman may appoint subcommittees to inquire into any matter of Board interest. Each subcommittee shall report its findings, conclusions and recommendations to the Board, in a manner directed by the chairman.

#### Historical Note

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).

#### R13-4-103. Certification of Peace Officers

- A. Certified status mandatory. No person who does not have certified status or whose certified status is inactive shall function as a peace officer or be assigned the duties of a peace officer by an agency, except as provided in subsection (B).
- B. Constables and sheriffs are exempt from the requirement of certified status.
- C. A peace officer must satisfy the minimum qualifications and training requirements to receive certified status.
- D. Peace officer categories. The categories for which certified status may be granted are:
  - 1. Regular peace officer,
  - 2. Specialty peace officer,
  - 3. Reserve peace officer,
  - 4. Limited reserve peace officer,
  - 5. Limited correctional peace officer.

#### Historical Note

Adopted effective March 23, 1989 (Supp. 89-1). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2).

#### R13-4-104. Peace Officer Category Restrictions

- A. Limited reserve peace officer. A limited reserve peace officer must be in the company of and under the direct supervision and control of a regular peace officer or reserve peace officer when engaged in patrol or investigative activities performed for the purpose of detection, prevention and suppression of crime or the enforcement of criminal and traffic laws of the state, county or municipality, except when duties are restricted to:
  - 1. Traffic direction or crowd control assistance, or
  - 2. Maintenance of public order in the event of riot, insurrection, or disaster.
- B. Peace officer category change. A certified peace officer may be appointed to another peace officer category within the same agency without the background investigation, fingerprint check and medical examination required in Section R13-4-105 when these requirements were previously satisfied for appointment if:
  - 1. No more than 30 days have elapsed since the peace officer's termination, and
  - 2. The change is to a category for which the officer is qualified under Section R13-4-110(A).
- C. Inactive status. Certified status of a peace officer shall become inactive upon termination.
- D. Limited correctional peace officer. A limited correctional peace officer may only exercise peace officer authority while on duty with the Arizona Department of Corrections, and only for guarding, transporting, or pursuing persons under the juris-

diction of the Arizona Department of Corrections. Limited correctional peace officers are not authorized to engage in high-speed vehicular pursuit operations.

- E. Reinstatement from inactive status. A peace officer whose certified status is inactive may be reinstated when appointed:
  - 1. In the same peace officer category within three years of termination and the requirements of Section R13-4-105 have been met for the new appointment;
  - 2. As a reserve officer or specialty officer from inactive status as a regular peace officer within three years of termination and the requirements of Section R13-4-105 have been met for the new appointment;
  - 3. As a regular peace officer or specialty officer from inactive status as a reserve officer within six months of termination and the requirements of Section R13-4-105 have been met for the new appointment.

#### Historical Note

Adopted effective March 23, 1989 (Supp. 89-1). Amended effective August 6, 1991 (Supp. 91-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2).

#### R13-4-105. Minimum Qualifications for Appointment

- A. Prior to appointment or attending an academy, a person shall meet the following minimum qualifications:
  - 1. The person shall be a United States citizen.
  - 2. The person shall be at least 21 years of age, except that a person may attend an academy if he will be 21 prior to graduating.
  - 3. The person shall be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination.
  - 4. The person shall have undergone a complete background investigation which meets the standards of Section R13-4-106 except that an applicant may begin an academy prior to the return of the results of the fingerprint check. However, the applicant may not graduate from the academy nor the agency receive reimbursement for an applicant for which a qualifying return result has not been obtained. The background shall attest to the fact that the person meets minimum qualifications, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession and is of good moral character.
  - 5. The person shall have undergone a medical examination which meets the standards of Section R13-4-107 within one year prior to appointment. An examination preceding an appointment by more than 180 days shall require the submission of a written statement from the applicant that his condition has not changed since the examination.
  - 6. The person shall not have been convicted of a felony or any offense that would be a felony if committed in Arizona.
  - 7. The person shall not have been dishonorably discharged from the United States Armed Forces.
  - 8. The person shall not have been previously denied certified status, revoked or have his current certified status under suspension pursuant to Section R13-4-109.
  - 9. The person shall not have illegally sold, produced, cultivated, or transported marijuana for sale.
  - 10. The person shall not have illegally used marijuana for any purpose within the past three years.
  - 11. The person shall never have illegally used marijuana other than for experimentation.
  - 12. The person shall never have illegally used marijuana while employed or appointed as a peace officer.

## Arizona Peace Officer Standards and Training Board

13. The person shall not have illegally sold, produced, cultivated, or transported for sale any dangerous drugs or narcotics, other than marijuana.
  14. The person shall not have illegally used dangerous drugs or narcotics, other than marijuana, for any purpose within the past seven years.
  15. The person shall never have illegally used dangerous drugs or narcotics other than for experimentation.
  16. The person shall never have illegally used dangerous drugs or narcotics while employed or appointed as a peace officer.
  17. The person shall not have a pattern of abuse of prescription medication.
  18. The person shall have undergone and passed a Board-approved drug screening test, or polygraph examination, which polygraph examination relates to the provisions of subsections (A)(9)-(17).
  19. The person shall not have been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with such a frequency so as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highway within the past three years.
  20. The person shall have read the code of ethics in subsection (E) and affirmed by signature the person's understanding and agreement to abide by the code.
- B.** The use of an illegal drug is presumed to be not for experimentation if:
1. The use of marijuana exceeds a total of 20 times or exceeds five times since the age of 21 years.
  2. The use of dangerous drugs or narcotics, other than marijuana, exceeds a total of five times, or exceeds one time since the age of 21 years.
- C.** An agency head who wishes to appoint an applicant whose illegal drug use is presumed to be not for experimentation shall petition the Board for a determination that, given the unique circumstances of the applicant's use, it was experimentation. The petition shall:
1. Specify the type of illegal drugs used, the number of uses, the age(s) at the time of use, and shall describe the methods by which the information came to the agency's attention and any attempts made to verify the accuracy of the applicant's report.
  2. State the factors the agency head wishes the Board to consider in making its determination. Those factors may include:
    - a. The duration of usage,
    - b. The motivation for use,
    - c. The time elapsed since the last use,
    - d. How the drug was obtained,
    - e. How the drug was ingested,
    - f. Why the applicant stopped using the drug, and
    - g. Any other factors the agency head believes are relevant to the Board's determination.
- D.** With respect to limited correctional peace officers, previous completion of the background investigation conducted pursuant to R13-4-203 and the medical examination conducted pursuant to A.A.C. Title 5, Chapter 1, Article 5, satisfy the requirements of this Section when there has been no interruption of employment by the agency, except that:
1. The person shall submit to drug testing as required by subsection (A)(18) of this rule, and
  2. The agency shall make a current ACIC / NCIC criminal history inquiry.
- E.** Code of Ethics. The people of the state of Arizona have conferred upon all peace officers the authority and responsibility to safeguard lives and property within constitutional parameters.

ters. Because of this special trust and confidence, officers are expected to personally make the following commitment:

"I will exercise self-restraint and be constantly mindful of the welfare of others. I will be exemplary in obeying the laws of the land and loyal to the State of Arizona, my agency and its objectives and regulations. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secure unless revelation is necessary in the performance of my duty.

"I will never take selfish advantage of my position and will not allow my personal feelings, animosities or friendships to influence my actions or decisions. I will exercise the authority of my office to the best of my ability, with courtesy and vigilance, without favor, malice or ill will, and without compromise. I am a servant of the people and I recognize my position as a symbol of public faith. I accept it as a public trust to be held so long as I am true to the law and serve the people of Arizona."

#### Historical Note

Adopted effective March 23, 1989 (Supp. 89-1).

Amended effective August 6, 1991 (Supp. 91-3).

Amended effective January 13, 1993; filed July 13, 1992

(Supp. 92-3). References to "Council" changed to

"Board" (Supp. 94-3). Amended effective October 20,

1995; filed with the Secretary of State April 20, 1995

(Supp. 95-2).

#### R13-4-106. Background Investigation Requirements

- A.** Personal history statement. Each candidate for appointment shall complete and submit to the appointing agency a personal history statement on a form prescribed by the Board prior to the start of the background investigation. The history statement shall contain questions which aid in determining whether a person is eligible for certified status as a peace officer.
- B.** Investigative requirements. The background investigation shall include the following:
1. Proof of United States citizenship. Copy of a birth certificate, United States passport or United States naturalization papers shall be acceptable proof. Proof of citizenship shall be retained by the agency.
  2. Proof of education. Copy of a diploma, certificate or transcript shall be acceptable proof. Proof of education shall be retained by the agency.
  3. Record of any military discharge. A copy of the Military Service Record Form (DD 214) shall be acceptable proof. Proof of any military discharge shall be retained by the agency.
  4. Department of Transportation driving record. A copy of the Motor Vehicle Division record on the applicant's driving history shall be retained by the agency.
  5. Personal reference and previous employer inquiries. Information provided by personal references and at least three previous employers of the applicant shall be recorded and retained by the agency.
  6. Law enforcement agency records. Law enforcement agency records in jurisdictions where the applicant has lived or worked in the past five years shall be checked. Information obtained shall be recorded and retained by the agency.
  7. Federal Bureau of Investigation and Department of Public Safety records. The applicant shall have undergone a fingerprint check with these departments. A copy of the Fingerprint Card Inventory Sheet shall be retained by the agency.

8. National and Arizona Criminal Information Center checks. A copy of the NCIC/ACIC response shall be retained by the agency.
9. The results of a Board-approved drug screening test, or polygraph examination, as required by R13-4-105.

#### Historical Note

Adopted effective March 23, 1989 (Supp. 89-1).  
Amended effective January 13, 1993; filed July 13, 1992 (Supp. 92-3). References to "Council" changed to "Board" (Supp. 94-3).

#### R13-4-107. Medical Requirements

- A. Medical categories. The following categories are established for the purpose of classifying medical circumstances to determine eligibility for certified status:
  1. Category I. No medical, physical or mental circumstance exists which would limit the person's ability to effectively perform the duties of a peace officer on a continuing basis or creates a reasonable probability of substantial harm to the person or others. A person in this category may be certified when in compliance with other standards.
  2. Category II. A medical, physical or mental circumstance exists which could limit the person's ability to effectively perform the duties of a peace officer on a continuing basis or may create a reasonable probability of substantial harm to the person or others. An agency shall determine if the person's medical, physical or mental circumstance will interfere with his ability to perform the duties of a peace officer and if so, whether reasonable accommodations can be made which will allow him to function as a peace officer on a continuing basis without creating a reasonable probability of substantial harm to the person or others. If an agency determines that the medical, physical or mental circumstance does not affect the ability of the person to perform the duties of a peace officer or that reasonable accommodations can be made and chooses to appoint the person, a medical review as prescribed in subsection (H) is required to determine eligibility for certified status.
  3. Category III. A medical, physical or mental circumstance exists where it is not possible to make reasonable accommodations which allow a person to perform the duties of a peace officer on a continuing basis without creating a reasonable probability of substantial harm to the person or others, or which substantially impairs the person's ability to function as a peace officer. A person in this category shall not be granted certified status.
- B. Medical, physical or mental circumstances in Category III include:
  1. Contagious hepatitis,
  2. Contagious tuberculosis,
  3. Total hearing loss,
  4. Visual acuity worse than 20/40 after correction.
- C. Medical, physical or mental circumstances in Category II include:
  1. Angina pectoris;
  2. Asthma;
  3. Cancer - metastatic or leukemia;
  4. Cardiac arrhythmias or murmurs;
  5. Cerebral vascular accident;
  6. Chest pains of unknown origin;
  7. Chronic respiratory disease;
  8. Diabetes, insulin dependent or ketosis-prone;
  9. Fixation of major joint;
  10. Hearing not specified in subsections (B) or (D).
  11. Herniated lumbar disc;
  12. Hypertension, uncontrolled;
  13. Inguinal hernia;
  14. Liver or renal dysfunction;
  15. Migraine headache;
  16. Myocardial infarction, history of;
  17. Neuroses;
  18. Paralysis;
  19. Pilonidal cyst;
  20. Prosthetic device, e.g., limbs, hearing aid, colostomy;
  21. Recurrent dislocation of a major joint;
  22. Schizophrenia or manic depressive psychosis;
  23. Scoliosis greater than 15 degrees;
  24. Seizure disorders;
  25. Substance abuse;
  26. Valvular heart disease, uncorrected;
  27. Vision not specified in subsections (B) or (D) or monocular vision;
  28. Wasting disease, chronic, e.g., multiple sclerosis, myasthenia gravis or amyotrophic lateral sclerosis;
  29. Any other medical, physical or mental circumstance which the examining physician determines may interfere with the person's ability to effectively function as a peace officer on a continuing basis or may create a reasonable probability of substantial harm to the person or others.
- D. Vision and hearing. Vision and hearing meeting the following requirements shall be classified in Category I:
  1. Visual acuity of:
    - a. 20/20 or better uncorrected; or
    - b. 20/20 or better, corrected by spectacles or hard contact lenses, if uncorrected acuity is 20/80 or better; or
    - c. 20/20 or better, corrected by soft contact lenses, if the uncorrected acuity is 20/200 or better. The candidate must demonstrate satisfactory adaptation to the contacts.
  2. Vision capable of distinguishing basic color groups against a favorable background.
  3. Peripheral vision:
    - a. Which does not reveal scotoma or quadrantonopia; or
    - b. In which vision perimeter testing is intact at 170 degrees.
  4. Uncorrected hearing with no loss greater than 25 db in the 500, 1000, 2000, 3000 hertz frequencies as measured by an audiometer.
- E. Medical history. Each applicant must supply to the examining physician a statement of the person's medical history which includes past and present diseases, injuries, operations, immunization status and medications taken.
- F. Medical examination. The examining physician shall review the candidate's medical history and examine the candidate. The physician shall indicate if any of the medical, physical or mental circumstances in Category II and III exist, describe how any circumstances in Category II affect the person's ability to perform the duties of a peace officer, specify the type and duration of any treatment required.
- G. Examination report. The physician shall record the findings of the medical examination on a form prescribed by the Board.
- H. Category II reviews. The diagnosis of a person with a circumstance classified in Category II by his examining physician shall be reviewed by the medical consultant if the agency intends to appoint the person. The medical consultant may review prior medical examination reports of the applicant and contact examining physicians to review their findings. An independent medical examination may be required and the

## Arizona Peace Officer Standards and Training Board

applicant may be referred to a specialist in the appropriate medical field.

- I. Medical consultant's report. The medical consultant shall advise the Board in writing of any limitations on the person's ability to function as a peace officer or any medical, physical or mental circumstances which creates a reasonable probability of substantial harm to the person or others if he were to perform the duties of a peace officer.
- J. Board action. The Board shall determine the person's eligibility for certified status based upon a finding of whether reasonable accommodations can be made by the agency to allow the person to function as a peace officer without endangering himself or others. The Board may place restrictions or requirements on the person as a condition of certified status.
- K. Additional findings. The requesting agency may submit results of additional examinations or tests, or obtain additional opinions from other licensed physicians. Additional findings may be considered by the Board in reviewing a candidate's eligibility for certified status.
- L. Costs of examinations. The expense of the review of previously conducted medical examinations by the medical consultant shall be the responsibility of the Board. The expense of additional examinations, tests or opinions, shall be borne by the person or requesting agency.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).

**R13-4-108. Agency Records and Reports**

- A. Agency reports. On forms prescribed by the Board, an agency shall submit:
  - 1. A report by the agency head attesting that the requirements of Section R13-4-105 have been met for each person appointed. The report shall be submitted to the Board prior to a person attending an academy or performing the duties of a peace officer.
  - 2. A copy of any Arizona Department of Public Safety or Federal Bureau of Investigation criminal history record, which includes any arrest or conviction of a person appointed by the agency. The copy of the record shall be submitted to the Board upon receipt by the agency.
  - 3. A report of the termination of a peace officer. The report shall be submitted to the Board within 15 days of the termination and include:
    - a. The nature of the termination and effective date;
    - b. A detailed description of any termination for cause;
    - c. A detailed description of, and supporting documentation for, any cause existing for suspension or revocation.
- B. Agency records. Agency records shall be made available upon the request of the Board or staff. The agency shall maintain:
  - 1. A copy of reports submitted pursuant to subsection (A);
  - 2. A signed copy of the affirmation to the Code of Ethics required pursuant to Section R13-4-105;
  - 3. A written report of the results of all completed or partially completed background investigations and all written documentation obtained or recorded pursuant to Section R13-4-106;
  - 4. A completed medical report required pursuant to Section R13-4-105;
  - 5. A record of all continuing training, proficiency training and firearms qualifications conducted pursuant to Sections R13-4-111, R13-4-112 and R13-4-113.
- C. Record retention. An agency shall maintain the records required by this Section as follows:

- 1. For applicants investigated pursuant to Section R13-4-106 who are not appointed, records shall be retained for one year;
- 2. For applicants who are appointed, records shall be retained for five years from the date of appointment, except records retained pursuant to subsection (B)(5), which shall be retained for three years.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).

**R13-4-109. Denial, Revocation, Suspension and Cancellation of Peace Officer Certified Status**

- A. Causes for denial, suspension or revocation. The Board may deny, suspend or revoke the certified status of a peace officer for:
  - 1. Willful falsification of information to obtain certified status;
  - 2. A physical or mental disability which substantially impairs the person's ability to perform the duties of a peace officer;
  - 3. A violation of a restriction or requirement for certified status pursuant to Section R13-4-107(J) or Section R13-4-118(A)(1);
  - 4. Addiction to or the unlawful use of narcotics or drugs;
  - 5. Unauthorized use of or being under the influence of spirituous liquor on duty, or excessive use of spirituous liquor which would tend to discredit the law enforcement profession;
  - 6. The commission of a felony, an offense which would be a felony if committed in this state, or an offense involving dishonesty, unlawful sexual conduct or physical violence;
  - 7. Malfeasance, misfeasance or nonfeasance in office;
  - 8. Any other conduct or pattern of conduct that would tend to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.
- B. Additional causes for suspension. Certified status may be suspended when a peace officer fails to satisfy the requirements of Sections R13-4-111, R13-4-112 or R13-4-113. The suspension shall remain in effect until the requirements are met and certified status shall be reinstated upon notice to the Board of their satisfaction.
- C. Cause for cancellation. The Board may cancel the certified status of a peace officer upon determining that the person was not qualified when certified status was granted.
- D. Cause for mandatory revocation. Upon the receipt of a certified copy of the judgment of a felony conviction of a peace officer the Board shall revoke certified status.
- E. Action by the Board. Upon receipt of a report that cause exists for the denial, cancellation, suspension, or revocation of the certified status of a peace officer, the Board shall determine the action to be taken regarding the retention of certified status. The Board may conduct additional inquiries or investigations in making its determination.
- F. Notice of action. The Board shall notify the affected person of a decision to pursue a denial, cancellation, suspension or revocation. The notice shall be delivered by certified mail or personal delivery and specify the cause for the action. Within ten days of delivery, the person named in the notice shall advise the Board or staff in writing whether a hearing is requested, if he intends to appear before the Board and if he will be represented by an attorney.
- G. Effect of agency action. No action by an agency or decision resulting from an appeal of that action shall preclude action by the Board to deny, cancel, suspend or revoke the certified status.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).

**R13-4-110. Basic Training Requirements**

- A.** Required training for certified status. No peace officer shall receive certified status or be used as a peace officer until the individual has successfully completed basic training as follows:
1. A regular or reserve peace officer shall complete the 585-hour basic peace officer course, specified in R13-4-116, at an academy.
  2. A specialty officer shall complete either the 280-hour specialty officer basic course or 585-hour basic peace officer course, specified in R13-4-116, at an academy.
  3. A limited reserve officer shall complete either the 200-hour limited reserve officer basic course or 585-hour basic peace officer course, specified in R13-4-116, at an academy.
  4. A limited correctional peace officer shall complete the correctional service officer basic course specified in R13-4-205 and the 48-hour limited correctional peace officer supplement, specified in R13-4-116, at the correctional officer training academy.
- B.** Exceptions. The training requirements in subsection (A) may be waived when using a peace officer:
1. During a riot, insurrection, disaster or other event which has exhausted the manpower resources of an agency and the peace officer is attending an academy;
  2. During an approved field training program which is a component of a basic training program at an academy, when the peace officer is under the direct supervision and control of a certified peace officer.
- C.** Firearms training required.
1. The firearms qualification course required in R13-4-113 shall, unless otherwise specified in this rule, be successfully completed prior to any peace officer carrying a firearm in the course of duty.
  2. Prior to carrying a firearm in the course of duty, a limited correctional peace officer shall:
    - a. Meet the requirements of R13-4-207, and
    - b. Complete a night-time firearms qualification shoot based on the course of fire set forth in R13-4-207.
- D.** Waiver of required training. A person who is not eligible for reinstatement of certified status as a peace officer or a person who has functioned in the capacity of a peace officer for another state or a federal law enforcement agency whose training substantially conforms to these rules may apply to the Board for a waiver. The Board may grant a complete or partial waiver if:
1. An application is submitted by an agency on a form prescribed by the Board. Written verification of previous experience and training must accompany the application.
  2. The applicant meets the minimum qualifications.
  3. The applicant successfully completes a comprehensive examination measuring his comprehension of the basic course. The examination shall be approved by the Board and include a written test and practical demonstrations of proficiency in firearms, physical conditioning, defensive driving and pursuit operations.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2).

**R13-4-111. Continuing Training Requirements**

- A.** Continuing training required. The following requirements apply to certified peace officers:
1. A regular peace officer or reserve officer shall complete eight hours of continuing training at a certified school each calendar year beginning the year following receipt of certified status.
  2. A specialty officer or limited reserve officer shall complete eight hours of continuing training at a certified school every three years beginning from the date he received certified status.
  3. A limited correctional peace officer shall complete eight hours of continuing training every three years beginning on January 1 following the date the individual received certified status and may satisfy the requirements of this rule with training:
    - a. Approved in R13-4-206;
    - b. Provided by an instructor certified under R13-4-205(C); and
    - c. Addressing a topic area enumerated in subsection (B)(2) of this rule.
- B.** Curriculum. The following curriculum provisions are required for continuing training conducted by a certified school.
1. The course curriculum must be initially approved as to topic area and substance by the Board and approved thereafter:
    - a. Each year for regular peace officer and reserve officer curriculum;
    - b. Every three years for specialty officer, limited reserve, and limited correctional peace officer curriculum.
  2. The curriculum shall contain material from one or more of the following topic areas:
    - a. Search and seizure,
    - b. New procedures and technology,
    - c. Officer survival techniques,
    - d. Management and supervision,
    - e. Interviewing and questioning,
    - f. Crime prevention,
    - g. Arizona Revised Statutes,
    - h. Court decisions,
    - i. Other law enforcement related topics.
- C.** Equivalency credit. If approved by the Board as being equivalent to a certified school, the continuing training requirements may also be satisfied in whole or in part by completion of an equivalent training program conducted by a non-certified school.
1. Individual requests for Board approval require the submission of:
    - a. A petition for equivalency credit describing the training program, the institution or organization providing the training, and the number of hours attended;
    - b. A certificate or other verification of attendance.
  2. Training programs approved on an ongoing basis may meet all or part of the continuing training requirements. Proof of attendance shall be provided upon request of the Board or staff.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2).

## Arizona Peace Officer Standards and Training Board

**R13-4-112. Proficiency Training Requirements**

- A.** Proficiency training required. All peace officers below the first level supervisory position shall complete eight hours of proficiency training at a certified school every three years beginning with the date they receive certified status.
- B.** Curriculum. The following curriculum provisions are required for proficiency training provided by a certified school:
  - 1. The course curriculum must be initially approved as to topic area and substance by the Board and approved thereafter every three years.
  - 2. The curriculum shall cover one or a combination of the following topic areas:
    - a. Defensive tactics,
    - b. Baton training,
    - c. Tactical firearms (not firearms qualification),
    - d. Defensive driving and pursuit operations,
    - e. First aid and emergency care,
    - f. Tactical operations,
    - g. Skills areas unique to an agency.
  - 3. Limited correctional peace officers may satisfy the requirements of this rule with training:
    - a. Approved in R13-4-206;
    - b. Provided by an instructor certified under R13-4-205(C); and
    - c. Addressing a topic area enumerated in subsection (B)(2) of this rule.
- 2. Instructional ability shall be demonstrated by:
  - a. Successful completion of an instructor training course at a certified school; or
  - b. If nominated as a specialist, documentation that clearly demonstrates his expertise and ability to enhance training in a special field; or
  - c. Successful completion of an examination prescribed by the Board which measures instructor ability and knowledge of educational philosophy.
- C.** Specialty instructor requirements. To apply for certified status as a specialty instructor for a topic area listed in subsection (E), a person must:
  - 1. Be certified as a general instructor; and
  - 2. Submit a completed application on a form prescribed by the Board; and
  - 3. Submit documentation of advanced training and experience in the topic area.
- D.** Limited waiver. The Board may waive the requirement to be a general instructor pursuant to subsection (C)(1), for a person teaching topics in subsection (E), if he instructed one of those topics prior to the adoption of this Section and is otherwise qualified. The waiver shall apply only to instruction of the topic previously taught.
- E.** Topics requiring specialty instructors. A certified school shall use a specialty instructor for classroom instruction, field training, practical exercises and evaluation of students for the following topic areas:
  - 1. Firearms,
  - 2. Baton,
  - 3. First aid and emergency care,
  - 4. Defensive tactics,
  - 5. Physical conditioning,
  - 6. Defensive driving and pursuit operations.
- F.** Lapse of certified status. Certified instructor status shall lapse five years from the date of certification.
- G.** Renewal of certified status. The Board may renew the certified status of an instructor based upon a review of applicable inspection reports and any written endorsement of a school administrator or agency head which attests to the instructor's proficiency.
- H.** Denial, suspension or revocation. The Board may deny, suspend or revoke the certified status of an instructor for failure to comply with the provisions of this Section or demonstrate proficiency.
- I.** Notice of denial, suspension or revocation. The Board shall immediately notify a certified instructor of a decision to deny, suspend or revoke by certified mail or personal service. The notice shall include the reason for the action and provisions for a hearing pursuant to Section R13-4-118.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).  
 Adopted effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2).

**R13-4-113. Firearms Qualification Requirements**

- A.** Firearms qualification required. A peace officer authorized to carry a firearm shall qualify each calendar year beginning the year following the receipt of certified status, using a service handgun and service ammunition or equivalent, on a Board-approved firearms qualification course presented by a certified instructor.
- B.** Approved firearms qualification course. An approved firearms qualification course is one that is authorized for presentation pursuant to R13-4-116, consisting of a timed accuracy component and a target identification and judgment component.
- C.** Course approval. Academies and law enforcement agencies submitting a firearms qualification course to the Board for approval shall meet the requirements of R13-4-116(C)(3)-(4) and must also identify the type and style of target to be used as a part of the approved success criteria.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1).  
 Amended effective August 6, 1991 (Supp. 91-3). Reference to "Council" changed to "Board" (Supp. 94-3).  
 Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2).

**R13-4-114. Certified Instructor Requirements**

- A.** Certified instructor categories. Certified instructors shall be classified into the following categories:
  - 1. General instructor - an instructor authorized to teach in certified schools in topics not requiring a specialty instructor.
  - 2. Specialty instructor - an instructor authorized to teach in certified schools in topics listed in subsection (E).
- B.** Certified instructor requirements. A person must meet the following requirements to receive certified status as an instructor.
  - 1. An applicant for instructor shall have:
    - a. Two years experience as a certified peace officer; or
    - b. One year experience and a degree from an accredited college or university; or
    - c. A nomination by an agency head or school administrator as a specialist.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).

**R13-4-115. Certified School Requirements**

- A.** Certified status required. Unless otherwise provided for in this Article, only a certified school may provide training required to receive or maintain certified status. The Board may grant certified status to a school in compliance with this Section.
- B.** Certified schools. Certified status is required for an academy which provides the basic peace officer course and a school which provides certified instructor training, continuing train-

- ing or proficiency training requiring required for certified status.
- C. Required standards.** A school must meet the following standards to receive and retain certified status:
1. Certified instructors shall be used to provide instruction required for certified status;
  2. The facilities of a training school must be approved by the Board as being in compliance with subsection (D);
  3. The school must be in compliance with the provisions of Sections R13-4-111, R13-4-112, and R13-4-116.
- D. Facility requirements.** To receive Board approval a school shall meet the following requirements applicable to the course of instruction provided:
1. A classroom with adequate heating, cooling, ventilation, lighting and space;
  2. Chairs with tables or arms for writing;
  3. Visual aid devices for classroom presentation;
  4. Equipment in good condition for specialized instruction;
  5. A safe driving range for conducting the defensive and pursuit driving course;
  6. A firing range with adequate backstop to insure the safety of all persons on or near the range;
  7. A safe location for practical exercises.
- E. Required records and reports.** For each session the school administrator shall:
1. Maintain a written synopsis of the session including persons enrolled, persons completing, agencies participating, highlights and any unusual events;
  2. Maintain a final schedule of classes, reflecting any changes in dates, times, instructors or training location;
  3. Submit a report for each session of all persons completing the session.
- F. Lapse of certified status.** When a certified school ceases to conduct approved training programs for 12 consecutive months, the certified status shall lapse. Otherwise, a school's certified status is valid until surrendered, suspended or revoked.
- G. Denial, suspension or revocation.** The Board may deny, suspend or revoke the certified status of a school for failure to comply with the provisions of this Section.
- H. Notice of denial, suspension or revocation.** The Board shall, within five days of a decision to deny, suspend or revoke, notify the school administrator by certified mail or personal service of the action. The notice shall include the reason for the action and the provisions for a hearing pursuant to Section R13-4-118.
- Historical Note**
- Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).
- R13-4-116. Academy Requirements**
- A. Administrative requirements.** An academy shall:
1. Establish and maintain policies, procedures and rules concerning the operation of the academy, entrance requirements, student and instructor conduct;
  2. Admit only persons who are appointed by an agency. A person appointed by an agency must submit an agency application as described in subsection (D), Paragraph (4) prior to admission;
  3. Administer a written examination measuring competency in reading and writing English prescribed by the Board to each student at the beginning of each academy session;
  4. Administer a standardized comprehensive examination prescribed by the Board to all students prior to graduation.
- B. Academic requirements.** An academy shall do the following:
1. Establish a curriculum with performance objectives and learning activities that provide course content and minimum number of hours for each functional area prescribed in subsection (C).
  2. Require instructors to use lesson plans that cover the course content and list the performance objectives and learning activities to be achieved.
  3. Administer written, oral, or practical demonstration examinations which measure the attainment of performance objectives prescribed for each block of instruction.
  4. Review examination results with each student. The student shall make and understand any necessary corrections and sign and date an acknowledgment that he participated in the review.
  5. Require cadets to successfully complete examinations in each block of instruction, prior to graduating.
    - a. Successful completion of a written or oral examination shall be a score of 70% or greater.
    - b. Scores of less than 70% shall require the cadet to:
      - i. Receive remedial training; and
      - ii. Be re-examined in areas of deficiency.
    - c. No more than one re-examination per block of instruction shall be allowed.
  6. Require cadets to qualify with firearms as set forth in R13-4-110.
  7. Insure cadets also meet the Board-approved success criteria for the functional areas concerning police proficiency skills.
  8. Provide remedial training for a student who misses a class prior to allowing the student to graduate.
  9. Allow no student who has been absent more than 32 hours from the basic peace officer course or 16 hours from the specialty officer basic course or limited reserve officer basic course to graduate.
- C. Basic course specifications.** An academy shall develop curricula for the approved basic courses of instruction based on the following criteria.
1. Approved courses.
    - a. 585-Hour Basic Peace Officer Course
      - i. Functional Area I - Introduction to Law Enforcement - To minimally include the topics of:
        - (1) Criminal Justice Systems
        - (2) History of Law Enforcement
        - (3) Law Enforcement Services
        - (4) Supervision and Management
        - (5) Ethics and Professionalism
      - ii. Functional Area II - Law and Legal Matters - To minimally include the topics of:
        - (1) Introduction to Criminal Law
        - (2) Laws of Arrest
        - (3) Search and Seizure
        - (4) Rules of Evidence
        - (5) Summonses, Subpoenas, and Warrants
        - (6) Civil Process
        - (7) Administration of Criminal Justice
        - (8) Juvenile Law and Procedures
        - (9) Courtroom Demeanor
        - (10) Constitutional Law
        - (11) Substantive Criminal Law Titles 4, 13, and 36
        - (12) Liability Issues
      - iii. Functional Area III - Patrol Procedures - To minimally include the topics of:
        - (1) Patrol and Observation
        - (2) High Risk Stops

## Arizona Peace Officer Standards and Training Board

- (3) Domestic Disputes and Crisis Intervention
- (4) Mental Illness
- (5) Crimes in Progress
- (6) Crowd and Riot Control
- (7) Bomb Threats and Disaster Training
- (8) Intoxication Cases
- (9) Communication Systems
- (10) Hazardous Materials
- (11) Bias Motivated Crimes
- (12) Fires
- (13) Civil Disputes
- iv. Functional Area IV - Traffic Control - To minimally include the topics of:
  - (1) Impaired Driver Cases
  - (2) Traffic Citations
  - (3) Traffic Collision Investigation
  - (4) Traffic Collision (Practical)
  - (5) Traffic Direction
  - (6) Substantive Traffic Law Title 28
- v. Functional Area V - Crime Scene Management - To minimally include the topics of:
  - (1) Preliminary Investigation and Crime Scene Management
  - (2) Crime Scene Investigation (Practical)
  - (3) Physical Evidence Procedures
  - (4) Interviewing and Questioning
  - (5) Fingerprinting
  - (6) Sex Crimes Investigations
  - (7) Death Investigations (which shall also incorporate training on Sudden Infant Death Syndrome)
  - (8) Organized Crime Activity
  - (9) Investigation of Specific Crimes
  - (10) Narcotics and Dangerous Drugs
- vi. Functional Area VI - Community and Police Relations - To minimally include the topics of:
  - (1) Public and Police Interaction
  - (2) Victimology
  - (3) Human Communications
  - (4) Crime Prevention
- vii. Functional Area VII - Report Writing - To minimally include the topics of:
  - (1) Report Writing
  - (2) Note Taking
  - (3) Police Information Systems
- viii. Functional Area VIII - Police Proficiency Skills - To minimally include the topics of:
  - (1) First Aid / Care
  - (2) Firearms Training
  - (3) Physical Conditioning and Performance
  - (4) Stress Management
  - (5) Defensive Tactics
  - (6) Vehicle Operations
  - (7) Pursuit Operations
  - (8) Use of Force
  - (9) Baton
- ix. Functional Area IX - Orientation and Introduction - To minimally include the topics of:
  - (1) Examinations and Reviews
  - (2) Counseling
  - (3) Elective Time
- b. 280-Hour Specialty Officer's Basic Course
  - i. Functional Area I - Introduction to Law Enforcement - To minimally include the topics of:
    - (1) Criminal Justice Systems
    - (2) Law Enforcement Services
    - (3) Supervision and Management
    - (4) Ethics and Professionalism
  - ii. Functional Area II - Law and Legal Matters - To minimally include the topics of:
    - (1) Introduction to Criminal Law
    - (2) Laws of Arrest
    - (3) Search and Seizure
    - (4) Rules of Evidence
    - (5) Administration of Criminal Justice
    - (6) Juvenile Law and Procedures
    - (7) Courtroom Demeanor
    - (8) Constitutional Law
    - (9) Liability Issues
  - iii. Functional Area III - Enforcement Procedures - To minimally include the topics of:
    - (1) Enforcement Techniques and Tactics
    - (2) Crimes in Progress
    - (3) Communication Systems and Procedures
    - (4) Hazardous Materials / First Responder
    - (5) Bias Motivated Crimes
  - iv. Functional Area IV - Criminal Investigation - To minimally include the topics of:
    - (1) Preliminary Investigation and Crime Scene Management
    - (2) Physical Evidence Procedures
    - (3) Interviewing and Questioning
  - v. Functional Area V - Community and Police Relations - To minimally include the topics of:
    - (1) Public and Police Interaction
    - (2) Victimology
    - (3) Human Communications
  - vi. Functional Area VI - Records and Reports - To minimally include the topics of:
    - (1) Report Writing
    - (2) Note Taking
    - (3) Police Information Systems
  - vii. Functional Area VII - Police Proficiency Skills - To minimally include the topics of:
    - (1) First Aid / Care
    - (2) Defensive Driving
  - viii. Functional Area VIII - Agency Specific Training - A minimum of 40 hours of training in this functional area is required. Specialty officers not completing Functional Area IX - Full-Custody Arrest Skills are required to complete a minimum of 80 hours of training in this functional area.
  - ix. Functional Area IX - Full-Custody Arrest Skills - This functional area is only required for specialty officers who are authorized by their appointing agency to make full-custody arrests and carry a firearm. Training to minimally include the topics of:
    - (1) High Risk Vehicle Stops
    - (2) Defensive Tactics
    - (3) Firearms Training
    - (4) Physical Conditioning and Performance
    - (5) Stress Management
    - (6) Pursuit Operations
    - (7) Use of Force
    - (8) Baton
  - x. Functional Area X - Administrative Time - To minimally include the topics of:
    - (1) Orientation and Introduction
    - (2) Examinations and Reviews



- (3) Counseling
- c. 200-Hour Basic Limited Reserve Peace Officer Course
  - i. Functional Area I - Introduction to Law Enforcement - To minimally include the topics of:
    - (1) Criminal Justice Systems
    - (2) History of Law Enforcement
    - (3) Ethics and Professionalism
  - ii. Functional Area II - Law and Legal Matters - To minimally include the topics of:
    - (1) Introduction to Criminal Law
    - (2) Laws of Arrest
    - (3) Search and Seizure
    - (4) Rules of Evidence
    - (5) Courtroom Demeanor
    - (6) Constitutional Law
    - (7) Substantive Criminal Law Titles 4, 13, and 36
  - iii. Functional Area III - Patrol Procedures - To minimally include the topics of:
    - (1) Patrol and Observation
    - (2) High Risk Vehicle Stops
    - (3) Domestic Disputes and Crisis Intervention
    - (4) Crimes in Progress
    - (5) Crowd and Riot Control
    - (6) Communication Systems and Procedures
    - (7) Bias Motivated Crimes
    - (8) Fires
    - (9) Civil Disputes
  - iv. Functional Area IV - Traffic Enforcement and Investigation - To minimally include the topics of:
    - (1) Traffic Citations
    - (2) Traffic Direction
    - (3) Substantive Traffic Law Title 28
  - v. Functional Area V - Criminal Investigation - To minimally include the topics of:
    - (1) Preliminary Investigation and Crime Scene Management
    - (2) Interviewing and Questioning
  - vi. Functional Area VI - Community and Police Relations - To minimally include the topics of:
    - (1) Public and Police Interaction
    - (2) Victimology
    - (3) Human Communications
  - vii. Functional Area VII - Report Writing - To minimally include the topics of:
    - (1) Report Writing
    - (2) Note Taking
    - (3) Police Information Systems
  - viii. Functional Area VIII - Police Proficiency Skills - To minimally include the topics of:
    - (1) First Aid / Care
    - (2) Firearms Training
    - (3) Physical Conditioning and Performance
    - (4) Stress Management
    - (5) Defensive Tactics
    - (6) Vehicle Operations
    - (7) Use of Force
    - (8) Baton
  - ix. Functional Area IX - Administrative Time - To minimally include the topics of:
    - (1) Orientation and Introduction
    - (2) Examinations and Reviews
    - (3) Counseling
- d. 48-Hour Limited Correctional Peace Officer Supplement
  - i. Functional Area I - Introduction to Law Enforcement - To minimally include the topic of Management and Supervision.
  - ii. Functional Area II - Law and Legal Matters - To minimally include the topics of:
    - (1) Law of Arrest
    - (2) Search and Seizure
  - iii. Functional Area III - Patrol Procedures - To minimally include the topics of:
    - (1) Patrol and Observation
    - (2) Bias Motivated Crimes
  - iv. Functional Area IV - Crime Scene Management - To minimally include the topic of Preliminary Investigation and Crime Scene Management.
  - v. Functional Area V - Proficiency Skills - To minimally include the topics of:
    - (1) First Aid
    - (2) Firearms Training.
- 2. Administrative functions shall be exempt from the requirement of subsections (C)(4)(a)-(d). These functions may include but are not limited to:
  - a. Orientation
  - b. Introductions
  - c. Examinations and reviews
  - d. Counseling
- 3. Curriculum approval. Curricula submitted to the Board for approval shall meet or exceed the requirements of subsection (C)(4), unless otherwise stated in this rule. Academies and law enforcement agencies must also submit for approval any substantive changes in performance objectives. Curricula submitted for approval shall be received by the AZ POST staff no later than 30 days prior to the next regularly scheduled Board meeting. The Board shall approve curricula that employ valid, job-based performance objectives and learning activities, and promote cadet, officer, and public safety, as determined by a scientifically conducted validation study.
- 4. Curriculum development. Curricula submitted to the Board for approval must incorporate each block of instruction and contain lesson plans with performance objectives and applicable learning activities.
  - a. A block of instruction is a general statement of instructional intent that summarizes a desired learning outcome. The statement should be broad in scope, have general statement of ends, and be long-term or far-reaching.
  - b. Lesson plans submitted to the Board for approval shall contain:
    - i. Course title
    - ii. Hours of instruction
    - iii. Materials and aids to be used
    - iv. Instructional strategy
    - v. Topic areas in outline form
    - vi. Success criteria
    - vii. Performance objectives and learning activities to be achieved.
  - c. Performance objective shall follow a format approved by the Board and minimally consist of three components:
    - i. The learner - An individual or group that performs a behavior as the result of instruction.
    - ii. The behavior - A demonstration by the student at the end of instruction which is evidence that

## Arizona Peace Officer Standards and Training Board

- the objective has been achieved. What is described shall be an observable activity to be performed by the student. This allows evaluation of the student's capabilities relative to the stated behavior. Performance objectives for each block of instruction shall describe the expected behavior in action terms which are readily observable, measurable, and easily evaluated; i.e., "the student will identify, demonstrate, or perform."
- iii. The conditions - A description of the important conditions of instruction or evaluation under which the student will perform the stated behavior. If not specifically stated it will be implied that instruction and evaluation will be in written or oral form.
  - d. Valid learning activities shall be included in curricula submitted to the Board for approval. Peace officers shall not be required to demonstrate the learning of these activities as a condition for successfully completing the training. Learning activities shall be comprised of subject areas identified for which performance objectives are not considered appropriate out of recognition that either:
    - i. Reliable and meaningful assessment (i.e. testing) to evaluate mastery of the material would be extremely difficult if not infeasible, or
    - ii. Mastery of the material is not likely to bear a direct relationship to the ability to perform entry-level patrol officer job duties.
  - e. Functional areas, blocks of instruction, performance objectives, and learning activities shall use the following decimal numbering system to provide a logical means of organization and reference:
    - i. Functional Areas (1.0, 2.0, 3.0, etc.)
    - ii. Blocks of Instruction (1.1.0, 1.2.0, 1.3.0, etc.)
    - iii. Performance Objectives / Learning Activities (1.1.1, 1.1.2, 1.1.3, etc.)
  - f. The school administrator shall, initially and each calendar year thereafter, review and approve each lesson plan used in the academy. The school administrator shall also sign and date an acknowledgement of approval for each lesson plan.
- D. Records required.** An academy shall maintain the following records and make them available for inspection by the Board or staff. Copies of records shall be provided upon request.
1. A record of all persons attending the academy;
  2. A manual containing the policies, procedures and rules of the academy;
  3. A document signed by each person attending the academy indicating they have received and read a copy of the academy policies, procedures and rules;
  4. An application from the appointing agency for each person in attendance attesting that the requirements of Section R13-4-105 have been met. Application shall be made on a form prescribed by the Board.
  5. A copy of all lesson plans used by instructors and the school administrator's acknowledgments of approval;
  6. A copy of all examinations, answer sheets or records of performance, and examination review acknowledgments;
  7. An attendance roster for all classes or other record which identifies absent persons;
  8. A record of classes missed by students and the remedial training they received;
  9. A record of disciplinary actions for all persons attending the academy;
  10. A file for each person attending the academy containing his performance history.
- E. Reports required.** The school administrator for the academy shall submit to the Board:
1. Within ten days prior to the start of each academy session, a complete schedule of classes containing the name of the instructor for each class and the actual training location;
  2. Within five working days after the start of each academy session, a roster containing the appointing agency, full name and social security number of each person in attendance;
  3. Within five days of a termination of a person attending an academy, notification of the termination and the reason;
  4. On the tenth day of each month a report containing:
    - a. A summary of training activities and academy progress to date;
    - b. Unusual occurrences, accidents, or liability issues;
    - c. Problems noted in the course of the academy;
    - d. Changes to academy staff or instructors;
    - e. Changes or additions to programs.
- F. Required inspections.** Prior to granting an academy certified status an on-site inspection of the academy shall be conducted by Board staff. Additional inspections shall be conducted as often as the Board deems necessary. Following an inspection:
1. Staff shall present an inspection report to the Board describing academy compliance in meeting standards;
  2. The school administrator shall, within 60 days of his receipt of the inspection report, submit a response which identifies the remedial action to be taken in correcting any deficiencies described in the report.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2).

**R13-4-117. Grant Applications and Reimbursements**

- A.** Approval of training programs. The Board may approve or deny training programs for reimbursement. Approval may be given regardless of the certified status of the school or instructor providing the training. The Board may withdraw approval for reimbursement at any time.
- B.** Application for reimbursement. Prior to the beginning of any approved training program, each agency planning to participate in the school and apply for reimbursement shall notify the Board on prescribed forms.
- C.** Claim for reimbursement. When an approved training program has been completed, qualified agencies participating may submit a claim for reimbursement on a form prescribed by the Board. The claim must be submitted within 60 days after completion of the training.
- D.** Allowable reimbursements. The following reimbursements shall be allowed up to the limit approved by the Board:
1. The actual cost of lodging and meals while a peace officer is in attendance at an approved school,
  2. The salary at the actual rate of pay a peace officer receives while attending an approved training program,
  3. Tuition for an approved training program on a pro rata basis for the actual hours of training attended,
  4. Other expenses incurred by a peace officer.
- E.** Limitations on reimbursements. The following limitations shall apply to applications for reimbursement.
1. Reimbursement shall not be paid to an agency when the peace officer has previously completed the same training program within three years.

2. Reimbursement for peace officers failing to complete approved training programs shall not be paid except upon request of the appointing agency. The agency must present the reasons for the non-completion to the Board with the request for reimbursement.
  3. Salary reimbursement for an approved training program is payable only for the actual hours of training attended at the rate established by the Board.
  4. Agency payment of insurance, medical, pension, uniform, clothing equipment or other benefits or expenses of a peace officer while attending an approved training program shall not be reimbursed.
- F.** Academy reimbursement. The actual costs of materials, books, ammunition, registration fees and tuition, necessary for completion of a basic course may be paid to an academy up to the limits set by the Board. Paid receipts, or invoices, and other information as required by the Board, shall be furnished in order to verify costs incurred. Any amount not actually expended shall be returned to the Board. No reimbursement shall be paid to an academy for costs incurred for registration fees, tuition, books, materials, or ammunition for a peace officer, when such reimbursements have been made for a previous attendance.

#### Historical Note

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).

#### R13-4-118. Hearings

- A.** Request for hearing. The Board shall grant a hearing to any peace officer, agency, certified school or instructor aggrieved by a decision of the Board in reference to any of the following:
1. Establishment or enforcement of qualifications, standards or training requirements. The Board may waive in whole or in part any provisions of this Article, except for medical requirements pursuant to Section R13-4-107, upon a finding that the best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized. The Board may place restrictions or requirements on a peace officer, instructor or school as a condition of certified status.
  2. Refusal of a reimbursement claim submitted by an agency to the Board;
  3. Denial, suspension or revocation, except mandatory revocation pursuant to Section R13-4-109(D).
- B.** Selection of hearing officer. The Board may select an independent hearing officer to preside in any hearing granted under this rule.
- C.** Right to counsel. Before a hearing each party shall announce the presence of legal counsel for the record. The presiding hearing officer shall advise each party without legal counsel that the party is entitled to counsel at his own expense.
- D.** Oaths or affirmations. All testimony received at a hearing shall be under oath or affirmation.
- E.** Witness fees. If the Board issues a subpoena upon request by the appealing party, fees and mileage shall be paid by the appealing party and not paid from the Peace Officers' Training Fund.
- F.** Failure of affected party to appear at hearing. If after proper notification, the party requesting the hearing fails to appear before the Board or its hearing officer at the time and place designated for the hearing, the Board may consider the case based on the information available.
- G.** Decision by the Board. The decision of the Board shall be rendered within 60 days after conclusion of a hearing. Such decision shall be in writing and may contain findings of fact. Notice of the decision shall be served upon the party by either personal delivery or certified mail addressed to the party's last known residence or place of business.
- H.** Motion for rehearing. Rehearing may be granted on motion of a party or on the Board's initiative. Any party aggrieved by a decision in a contested case before the Board may file with the Board, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor.
- I.** Response. A response may be filed within ten days after service of such motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- J.** Grounds for rehearing. A rehearing or review of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the agency, the Board or its designated representative, the prevailing party, or any abuse of discretion where the moving party was deprived of a fair hearing;
  2. Misconduct of the Board, its hearing officer, or the prevailing party;
  3. Accident or surprise which could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing;
  5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing;
  6. The decision was not justified by the evidence or the decision was contrary to law.
- K.** Action by the Board. The Board may affirm or modify the decision or grant a rehearing to any or all of the parties, on all or part of the issues, for any of the reasons set forth in this Section. An order granting a rehearing shall specify the particular grounds granting the rehearing and the rehearing shall concern only those matters so specified.

#### Historical Note

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3).

### ARTICLE 2. CORRECTIONAL OFFICERS

#### R13-4-201. Definitions

In this Article, unless the context otherwise requires:

1. "Academy" means the Arizona Department of Corrections' Correctional Officer Training Academy (COTA) in Tucson, Arizona, or a satellite location authorized by the Director.
2. "Appointment" means the selection of a person as a correctional officer.
3. "Applicant" means an individual who applies to be a correctional officer.
4. "A.R.S." means Arizona Revised Statutes.
5. "Board" is defined in A.R.S. § 41-1661(3).
6. "Cadet" means an applicant who meets the requirements for appointment as a Correctional Officer and has subsequently been selected to attend the academy.
7. "Correctional Officer" is defined in A.R.S. § 41-1661(2).
8. "Department" means the Arizona Department of Corrections.
9. "Director" is defined in A.R.S. § 41-1661(4).
10. "Employing Agency" is defined in A.R.S. § 41-1661(5).
11. "Experimentation" means the limited use of illegal drugs which does not demonstrate a pattern of abuse.
12. "State Correctional Officer" means a person employed by the Department in the correctional service officer and correctional program officer series.

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). Reference to "Council" changed to "Board" and definitions relabeled accordingly (Supp. 94-3).

**R13-4-202. Uniform Minimum Standards for Appointment**

A. Prior to admission to the academy for training as a state correctional officer, a person shall meet the following minimum qualifications:

1. Be a citizen of the United States or be eligible to work in the United States.
2. Be at least 21 years of age.
3. Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination or equivalent as specified in R13-4-203(C)(3).
4. Have a valid Arizona driver's license (Class 2 or higher).
5. Have undergone a complete background investigation which meets the standards of Section R13-4-203.
6. Have undergone a physical examination within 12 months prior to appointment by a licensed physician designated by the Director, which meets the requirements of A.A.C. Title 5, Chapter 1, Article 5, Medical and Physical Requirements for Appointment as a Correctional Service Officer.
7. Not have been dishonorably discharged from the United States Armed Forces.
8. Not have experimented with marijuana within the past 12 months.
9. Not have experimented with dangerous drugs or narcotics within the past five years.
10. Never have used marijuana, narcotics or dangerous drugs other than for experimentation.
11. Not have a pattern of abuse of prescription medication.
12. Not have committed a felony or a misdemeanor, if the nature of the offense is judged by the Board to have a reasonable relationship to the functions of the position, in accordance with A.R.S. § 13-904(E).

B. Code of ethics. To enhance the quality of performance, the conduct, and the behavior of correctional officers, all persons appointed to such classifications shall make the following commitment:

"I shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism or partisan demands. I shall be courteous, considerate, and prompt when dealing with the public, realizing that we serve the public. I shall maintain mutual respect and professional cooperation in my relationships with other staff members.

"I shall be firm, fair, and consistent in the performance of my duties. I shall treat others with dignity, respect, and compassion and provide humane custody and care, void of all retribution, harassment, or abuse. I shall uphold the Constitution of the United States and the state of Arizona, along with federal and state laws. Whether on or off duty, in uniform or not, I shall conduct myself in a manner that will not bring discredit or embarrassment to my agency or the state of Arizona.

"I shall report without reservation any corrupt or unethical behavior which could affect either inmates, employees, or the integrity of my agency. I shall not use my official position for personal gain. I shall maintain confidentiality of information that has been entrusted to me and designated as such.

"I shall not permit myself to be placed under any kind of personal obligation which could lead any person to expect official favors. I shall not accept or solicit from

anyone, either directly or indirectly, any thing of economic value such as a gift, gratuity, favor, entertainment, or loan, which is, or may appear to be, designed to influence my official conduct. I will not discriminate against any inmate, employee, or any member of the public on the basis of race, gender, creed, or national origin. I will not sexually harass or condone sexual harassment with or against any person. I shall maintain the highest standards of personal hygiene, grooming, and neatness while on duty or otherwise representing the state of Arizona."

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). Reference to "Council" changed to "Board" (Supp. 94-3).

**R13-4-203. Background Investigation**

A. The Department shall be responsible for conducting a background investigation before an applicant is admitted to the academy. The Department shall review the personal history statement submitted pursuant to R13-4-203(B) and the results of the background investigation required in R13-4-203(C).

B. Personal history. Each applicant shall complete and submit to the employing agency a personal history statement. The history statement shall be completed prior to the start of the background investigation. It shall contain questions consistent with the information sought in the background investigation required in R13-4-203(C).

C. Investigative requirements. Before admitting an applicant to the academy, the Department shall collect, verify, and have on record, documents which establish that an applicant meets the standards for appointment specified in this Article. As a minimum, this documentation shall include:

1. Proof of the applicant's age and United States citizenship or eligibility to work in the United States. A copy of either the applicant's birth certificate, United States passport, Certification of United States Naturalization, Certificate of Nationality, Immigration Form I-151 or I-1551 Work Permit shall be acceptable proof.
2. Proof of the applicant's valid Arizona driver's license. A copy of the applicant's Arizona driver's license, along with written verification of the driving record from the Arizona Department of Transportation, Motor Vehicle Division, shall be acceptable proof.
3. Proof that the applicant is a high school graduate or its equivalent.
  - a. The successful completion of the Arizona General Education Development (G.E.D.) Tests or equivalent from another state, which meets or exceeds the Arizona Department of Education's requirement for such testing, shall be considered the equivalent of high school graduation.
  - b. In the absence of proof of successful high school graduation or General Education Development Tests, the following shall be considered acceptable:
    - i. A copy of an Associate's Degree or transcript showing successful completion of high school equivalency;
    - ii. A certificate issued by the United States Armed Forces Institute (U.S.A.F.I.) prior to December 31, 1974, showing successful completion of high school equivalency, or
  - c. An applicant may submit other evidence of high school equivalency for consideration by the Board.
4. Record of any military discharge. A copy of the Military Service Record Form (DD 214) shall be acceptable proof.

5. Results of a psychological fitness assessment, approved by the Director and conducted by a psychologist or psychiatrist designated by the Department.
6. Personal reference and previous employer inquiries. Information provided by at least three personal references and all previous employers of the applicant for the past five years shall be retained by the Department.
7. Law enforcement agency records. Law enforcement agency records in jurisdictions where the applicant has lived or worked in the past five years shall be requested and reviewed. Information obtained shall be recorded and retained by the Department.
8. National and Arizona Criminal Information Center ("NCIC"/"ACIC") checks. A copy of the NCIC/ACIC response shall be retained by the Department.
9. An applicant fingerprint card which has been processed by the Arizona Department of Public Safety and the Federal Bureau of Investigation.
  - a. An applicant fingerprint card shall have been processed for all cadets entering the academy and retained by the Department, except as otherwise provided in R13-4-203(C)(9)(b) and (c). Fingerprint cards shall be processed by the Department, regardless of the existence of a processed applicant fingerprint card from a previous employer.
  - b. In the event that an applicant fingerprint card has not been fully processed by the time the applicant is ready to enter the academy, the Department may allow the applicant to attend the academy provided that:
    - i. A computerized criminal history check has been made and the results are on file with the Department.
    - ii. The applicant meets all other specifications of this rule and the requirements of R13-4-202.
  - c. No cadet graduating from the academy shall continue in employment as a state correctional officer without a fully processed fingerprint card being received by the Department within 15 weeks from the date of admission to the academy.

#### Historical Note

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). Reference to "Council" changed to "Board" (Supp. 94-3).

#### R13-4-204. Records and Reports

- A. Reports. The Department shall submit to the Board:
  1. A report by the Director attesting that each person completing the academy meets the requirements of R13-4-202.
  2. A quarterly report of all state correctional officers terminated during the 90 days preceding the date of the report and showing the effective dates for each termination.
- B. Records. Department records shall be made available upon the request of the Board or staff and shall be kept in a central location. The agency shall maintain:
  1. A copy of reports submitted pursuant to R13-4-204(A).
  2. All written documentation obtained or recorded pursuant to R13-4-202 and R13-4-203.
  3. A record of all advanced training, specialized training, continuing education and firearms qualifications conducted pursuant to R13-4-206 and R13-4-207.
- C. Record retention. The Department shall maintain the records required by this Section as follows:
  1. For applicants investigated pursuant to R13-4-203 who are not appointed, records shall be retained for two years.

2. For applicants who are appointed, records shall be retained for five years from the date of appointment, except records retained pursuant to R13-4-204(B)(3), which shall be retained for three years.

#### Historical Note

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). References to "Council" changed to "Board" (Supp. 94-3).

#### R13-4-205. Basic Training Requirements

- A. Required training for state correctional officers. Prior to appointment as a state correctional officer, a person shall have successfully completed a Board-approved, 288-hour, basic correctional officer training program. Such program shall minimally meet the requirements of this Section.
- B. Board approval. The Department shall secure initial Board approval for a 288-hour, basic correctional officer training program within the time-frame specified in A.R.S. § 41-1823(A). Curricula or training materials which require Board approval, as specified in R13-4-205 through R13-4-207, shall be received by staff no later than 30 days prior to the next regularly scheduled Board meeting to insure adequate time for review. The Department shall be responsible for regular curriculum review, as specified in R13-4-205, and must submit for approval any substantive changes in course topics, performance objectives, success criteria or hours of instruction.
- C. Basic course specifications.
  1. The Department shall develop the curricula for the basic correctional officer training program.
    - a. The curricula shall include courses in the following functional areas.
      - i. Functional Area I - Ethics and Professionalism.
      - ii. Functional Area II - Inmate Management.
      - iii. Functional Area III - Legal Issues.
      - iv. Functional Area IV - Communication Skills.
      - v. Functional Area V - Officer Safety.
      - vi. Functional Area VI - Applied Skills.
      - vii. Functional Area VII - Security, Custody and Control.
      - viii. Functional Area VIII - Conflict and Crisis Management.
      - ix. Functional Area IX - Medical, Physical, and Mental Health.
    - b. The curricula shall also contain relevant administrative time. The amount of time allotted shall be suggested by the Department and approved by the Board. Approved administrative time may be used to satisfy R13-4-205(A) but shall be excluded from all other requirements of this rule.
  2. Curricula submitted to the Board for approval shall contain lesson outlines which include: course title, hours of instruction, materials and aids to be used, instructional strategy, topic areas in outline form, success criteria and the performance objectives to be achieved. The Director or his designee shall initially and each calendar year thereafter review and approve each lesson plan used in the academy. The Director or his designee shall also sign and date an acknowledgment of approval for each lesson plan.
  3. A performance objective shall consist of three components:
    - a. The learner - An individual or group that performs a behavior as the result of instruction.
    - b. The behavior - A demonstration by the student at the end of instruction which is evidence that the objective has been achieved. What is described shall be an

observable activity to be performed by the student. This allows evaluation of the student's capabilities relative to the stated behavior. Performance objectives for each block of instruction shall describe the expected behavior in action terms which are readily observable, measurable, and easily evaluated; i.e., "the student will identify, demonstrate or perform."

- c. The conditions - A description of the important conditions of instruction or evaluation under which the student will perform the stated behavior. If not specifically stated, it will be implied that instruction and evaluation will be in written or oral form.
4. Instructors of Board-approved courses shall meet certification requirements developed by the Department and approved by the Board. Instructors shall be qualified by education, experience or a combination of both and shall be certified by the Department as having the necessary qualifications prior to delivering any instruction. In addition to the basic certification requirements, instructors of courses dealing with the proficiency skills of defensive tactics, physical conditioning, firearms, and medical emergencies shall be required to complete specialized training as developed by the Department and approved by the Board. Instructors shall use lesson plans as described in R13-4-205(B)(2).

**D. Academic requirements.**

1. Cadets shall be given any combination of written, oral or practical demonstration examinations capable of measuring their attainment of the performance objectives in each approved lesson plan.
2. Academy staff shall review examination results and academic progress with cadets on a weekly basis. Academy staff shall insure that cadets are aware of correct responses.
3. Cadets shall successfully complete all examinations prior to graduating from the academy. To successfully complete a written or oral examination, a cadet shall have a minimum passing score of 70%.
  - a. Scores of less than 70% shall require the cadet to receive remedial training in areas of deficiency.
  - b. Cadets shall be offered no more than one re-examination per lesson plan.
4. Cadets shall qualify with firearms as specified in R13-4-207.
5. Cadets shall also meet success criteria for the proficiency skills of self-defense, physical conditioning, and medical emergencies, as approved under R13-4-205(B).
6. Cadets who do not attend a lesson shall be provided with remedial training prior to graduation.
7. Cadets must attend at least 90 percent of the total hours of basic training in order to graduate from the academy.

**E. Exceptions. A cadet shall not function as an appointed state correctional officer except:**

1. As a part of a bona fide exercise within the approved basic training program at an academy, when the cadet is under the direct supervision and control of an appointed state correctional officer, or
2. At the discretion of the Director, for the duration of an emergency situation including, but not limited to, riots, insurrections, and natural disasters. Cadets shall successfully meet the requirement of R13-4-205(D)(4) prior to carrying a firearm in the course of duty.

**F. Waiver of required training. The Board may grant a complete or partial waiver of the required basic training, at the request of the Director, if:**

1. The applicant successfully completes a basic corrections recruit training course comparable to or exceeding, in hours of instruction and subject matter, the Board-approved basic corrections course and has a minimum of one year experience as a correctional officer. Written verification of previous experience and training must accompany the application.
  2. The applicant meets the minimum qualifications specified in R13-4-202.
  3. The applicant successfully completes a comprehensive examination measuring comprehension of the basic corrections course. The examination shall be prepared by the Department and approved by the Board. It shall include a written test and practical demonstrations of proficiency in firearms, physical conditioning, and defensive tactics.
- G. Issuance of certificate.** Upon receiving notification from the academy that a cadet meets the training requirements specified in this Section or conditions of equivalency have been met under the provisions of R13-4-205(F), a Certificate of Completion shall be issued, provided that the provisions of R13-4-202 are met.

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). References to "Council" changed to "Board" (Supp. 94-3).

**R13-4-206. Continuing Training**

- A.** Continuing training requirement. On or after May 1, 1993, all appointed state correctional officers shall be required to receive eight hours of Board-approved continuing training each calendar year.
- B.** Continuing training requirements may be fulfilled by the following:
1. Advanced training programs.
  2. Specialized training programs.
- C.** Advanced training programs. The Department shall develop advanced training programs which include courses enhancing a correctional officer's knowledge, skills or abilities for the job that person performs. The courses within this program shall be approved by the Board and include topics which the Department shall develop, design, implement, maintain, evaluate and revise.
- D.** Specialized training programs. The Department shall develop specialized training programs which address a particular need of the Department and target a select group. The courses within this program shall be approved by the Board and include topics which the Department shall develop, design, implement, maintain, evaluate, and revise. These courses shall be different from those found in the basic corrections training program or any advanced training programs.
- E.** The Director shall advise the Board of compliance with this rule as provided in R13-4-204(B)(3).

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). References to "Council" changed to "Board" (Supp. 94-3).

**R13-4-207. Firearms Qualification Requirements**

- A.** State correctional officers who are authorized to carry a firearm shall requalify each calendar year after appointment, on all applicable Board-approved courses of fire. Firearms requalification may not be used to satisfy the requirements of R13-4-206.
- B.** Approved firearms qualification courses. A certified instructor, as defined in R13-4-205(C)(4) shall administer the following components:

1. 50-shot daytime or nighttime qualification course with service handgun. Minimum passing score shall be 210 points out of a possible 250 points.
  2. 7-shot qualification course with service shotgun.
  3. Target identification and discrimination course.
- C.** Alternate firearms qualification courses. Equivalent firearms qualification courses may be administered if approved by the Board.

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). References to "Council" changed to "Board" (Supp. 94-3).

**R13-4-208. Reinstatement and Re-employment of State Correctional Officers**

- A.** State correctional officers who terminate their employment may be reinstated by the Department within two years from

the date of termination, provided the individual meets the requirements of R13-4-202 and R13-4-203. Reinstatement shall be made without any of the testing or academic attendance requirements as specified in R13-4-205.

- B.** State correctional officers who terminate their employment may be re-employed by the Department if re-employment is sought within a period of more than two years, but less than three years, from the original date of termination. Re-employment shall be subject to the individual's ability to meet the requirements of R13-4-202 and R13-4-203 and complete the waiver provisions of R13-4-205(F).

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2).

**TITLE 13. PUBLIC SAFETY****CHAPTER 5. LAW ENFORCEMENT MERIT SYSTEM COUNCIL**

(Authority: A.R.S. § 28-235(C)(3)(c) et seq.)

**ARTICLE 1. GENERAL PROVISIONS**

## Section

- R13-5-01. Definitions
- R13-5-02. General provisions
- R13-5-03. Scope
- R13-5-04. Merit System Council

**ARTICLE 2. INVESTIGATION AND HEARINGS**

## Section

- R13-5-10. Investigation and hearings
- R13-5-11. General powers and duties

**ARTICLE 3. CLASSIFICATION**

## Section

- R13-5-15. Classification

**ARTICLE 4. COMPENSATION**

## Section

- R13-5-20. Compensation

**ARTICLE 5. GENERAL ENTRANCE AND PROMOTION PROVISIONS**

## Section

- R13-5-25. General entrance and promotion provisions
- R13-5-26. Examinations
- R13-5-27. Promotion
- R13-5-28. Veteran's preference

**ARTICLE 6. GENERAL APPOINTMENT PROVISIONS**

## Section

- R13-5-30. General appointment provisions
- R13-5-31. Limited term or provisional
- R13-5-32. Intermittent
- R13-5-33. Emergency
- R13-5-34. Re-employment
- R13-5-35. Probationary period
- R13-5-36. Duration appointments

**ARTICLE 7. GENERAL EMPLOYEE CONDUCT PROVISIONS**

## Section

- R13-5-40. General employee conduct provisions
- R13-5-41. Report of employee performance
- R13-5-42. Annual leave
- R13-5-43. Transfers

**ARTICLE 8. GENERAL PERSONNEL PROVISIONS**

## Section

- R13-5-45. General personnel provisions
- R13-5-46. Layoff and demotion
- R13-5-47. Disciplinary proceedings
- R13-5-48. Retirement

**ARTICLE 9. REPEALED**

## Section

- R13-5-50. Repealed

**ARTICLE 1. GENERAL PROVISIONS****R13-5-01. Definitions**

Unless the context requires otherwise, the definitions hereinafter set forth govern the construction of these rules:

1. "Agency". Includes "department", "board", "office", "authority", "commission", and every other governmental unit.

2. "Agency head". The Director of the Department of Public Safety.
3. "Appointment". The offer to and the acceptance by a person for and of the Department of Public Safety in accordance with these rules.
4. "Armed Forces". The United States Air Force, Army, Navy, Marine Corps, Army and Navy Nurse Corps, and the United States Coast Guard.
5. "A.R.S.". Arizona Revised Statutes.
6. "Business manager". The business manager of the Council provided in these rules.
7. "Chairman". The chairman of the Council.
8. "Class" or "rank". A group of positions sufficiently similar with respect to duties and responsibilities that the same title may be reasonably and fairly used to designate each position allocated to the class and that substantially the same tests of fitness may be used and that substantially the same minimum qualifications may be required and that the same schedule of compensation may be made to apply with equity.
9. "Council". The Arizona Law Enforcement Merit System Council created by Title 28, Chapter 2, Article 2, Section 28-235, Arizona Revised Statutes.
10. "C.S.A.". The Constitution of the state of Arizona.
11. "Department". The Department of Public Safety.
12. "Disabled veteran". Any veteran as defined herein who is currently declared by the United States Veterans Administration to be ten percent or more disabled as a result of service in the armed forces. Proof of such disability shall be deemed conclusive if it is on record in the United States Veterans Administration.
13. "Duration employment". An employment during time of war or during an emergency in connection with the National Defense, which employment is subject to termination and other conditions as prescribed by these rules.
14. "Duration examination". An open competitive examination or promotional examination held for the express purpose of providing a list of persons available for duration employment. Employment lists resulting from duration examinations can be used only in making appointments for duration employment.
15. "Elector". Any person meeting the requirements set forth in A.R.S. § 16-101, 16-104, and C.S.A. Article 7.
16. "Eligible list". A list of persons who have been examined in open competitive examination and are eligible for certification for a specific class.
17. "Emergency appointment". An appointment made during an actual emergency to prevent the stoppage of public business.
18. "Employee". Includes every commissioned employee and noncommissioned employee subject to the Arizona Law Enforcement Merit System and these rules and regulations and legally holding a position in accordance with Council rules.
19. "Employee, cadet". A probationary employee in training for the position of a commissioned officer.
20. "Employee, commissioned". An employee who has been invested with the authority of a public officer and a peace officer.
21. "Employee, emergency". An employee holding a position under emergency appointment.



22. "Employee, limited term". An employee whose appointment as a result of re-employment or certification from an employment list shall not exceed the probationary period for the class to which he is appointed.
23. "Employee, noncommissioned". One who has not been commissioned.
24. "Employee, permanent". An employee who has permanent status.
25. "Employee, provisional". An employee holding a position under provisional appointment.
26. "Gender". The masculine gender includes the feminine and neuter.
27. "General re-employment list". A list established for the re-employment of persons in a particular class in which the persons were previously employed.
28. "Improper political activity". Except in the exercise of his right to vote or petition or to privately express his opinion, improper political activity by an employee shall consist of, but is not limited to, the following:
  - a. Directly or indirectly giving, soliciting, or receiving any assessment, subscription, contribution, or political service, whether voluntary or involuntary, for a person who holds or is a nominee for or seeking the nomination for or an appointment to any public office.
  - b. Directly or indirectly soliciting or receiving the use of or the promise to use any official authority, whether then possessed or merely anticipated, to secure, retain or affect any position provided for by the Council.
  - c. Receipt of politically influential or authoritative aid by any person in securing any position, nomination, confirmation, promotion, increase in salary, or change of position or working condition.
  - d. Membership in any national, state or local committee of a political party or of a partisan political club.
  - e. Candidacy for nomination or election to any paid public office.
  - f. Participation in the management or affairs of any political party or in any political campaign.
29. "Limited term list". An eligible list established for use exclusively in making limited term appointments.
30. "May". Permissive.
31. "Military leave". The leave of absence status of a permanent employee or probationer who leaves a position to serve in the armed forces of the United States or of this state in time of national emergency or state military emergency or for military training and who has the right under statutes (A.R.S. § 38-297, 38-298, or 38-610) relating to re-employment of persons after military service to return to his position.
32. "Member". Any member of the Merit System Council.
33. "National emergency". Any period in which the United States is at war.
34. "Number". The singular number includes the plural; and the plural includes the singular.
35. "Oath". Includes affirmation or declaration.
36. "Office". Any position created by the legislative branch of the government, either directly or by necessary implication.
37. "Office" or "public officer". The incumbent of any office, member of any board or commission, or his deputy or assistant exercising the powers and duties of the officer, other than clerks or mere employees of the officer.
38. "Public officer" or "peace officer". A commissioned officer of the Department of Public Safety.
39. "Patrol". The Arizona Highway Patrol Division of the Department of Public Safety.
40. "Permanent status". The status of an employee who is lawfully retained in his position after the completion of the probationary period provided by these rules.
41. "Person". Includes any person, firm, association, organization, partnership, business trust, corporation or company.
42. "Personal qualifications". Includes all such personality traits and personal, moral and physical characteristics as are necessarily comprehended by the minimum qualifications established for the class.
43. "Position". An office or employment in the Department (whether occupied or vacant) involving the performance of duties or services by an individual.
44. "Probationary status". The status of an employee who has been certified and appointed from an employment list, or who has been re-employed after resignation, or who has been transferred or demoted but who has not completed the probationary period provided by these rules.
45. "Probationer". An employee who has probationary status.
46. "Recognized military service". Full-time service by a person in the armed forces during the national emergency or a state military emergency as defined under Arizona Law Enforcement Merit System Council rules.
47. "Rehabilitation". Restoration of veterans declared to be ten percent or more disabled, either physically or mentally.
48. "Resident". Any person meeting the requirements set forth in A.R.S. § 16-925.
49. "Rule". Any rule, or amendment thereto, of practice and procedure supplementary to but not inconsistent with the provisions of the Arizona Law Enforcement Merit System.
50. "Salary" or "wage". The amount of money or credit received as compensation for service rendered exclusive of mileage, traveling allowances, and other sums received for actual and necessary expenses incurred in the performance of the state's business.
51. "Secretary". The secretary of the Merit System Council.
52. "Section promotional list". A list of persons eligible for certification for a specific class resulting from a promotional examination for a particular section, district or functional group.
53. "Service-wide promotional list". A list of persons eligible for certification for a specific class resulting from a promotional examination as provided for under Arizona Law Enforcement Merit System Council rules.
54. "Shall". Mandatory.
55. "State". The state of Arizona.
56. "State military emergency". An emergency declared and terminable by the governor by proclamation during, but not limited to, such times as the United States is conscripting personnel for service in the armed forces.
57. "Tense". The present tense includes the past and future tenses; and the future includes the present.
58. "Veteran". Any person who has served full-time in the armed forces or the Arizona National Guard and who meets the requirements of the United States Veterans Administration and who has been discharged or released under conditions other than dishonorable.

**Historical Note**

Former Rule 1.1; Amended effective May 26, 1978  
(Supp. 78-3).

**R13-5-02. General provisions**

- A.** Delegation of responsibility: Whenever a power is granted or a duty imposed upon the agency head by these rules, the power may be exercised or the duty performed by a deputy or assistant of the agency head or by a person authorized by him, unless it is expressly otherwise provided.
- B.** Reports: The agency head shall report promptly to the Council such information as the Council may require in connection with each appointment, separation from service, or other change in position or salary, or other matters affecting the status of positions or the performance of duties of employees in his agency, and all such reports shall be prepared in the manner and form prescribed.
- C.** Information: Information given to the Council by any person shall not be open to inspection except under conditions prescribed by Council rule. Personnel files maintained by the Council shall be open to the governor of this state, members of the Council, the agency head, the Business Manager, and other persons designated by the Council.
- D.** Service of notice: Whenever any notice, paper, or document, except a subpoena, is directed to be given to or served upon any person or agency, such notice, paper, or document may be personally served or it may be served by mail to the last known residence or business address of the addressee. Unless otherwise specifically provided by statute, the giving of notice of matters to be heard or considered by the Council shall be governed by Council rule.
- E.** Service by mail: Service by mail of the charges in a disciplinary proceeding, the notice of an employee's suspension or discharge, and the notice of a probationer's rejection is made by the enclosure of such charges or notice in a sealed envelope, addressed to the last known address of the person to be served, registered with return receipt requested, and the depositing of it in the United States mail with postage fully prepaid. Service is complete on mailing. Service by mail of any other notice, paper, or document is made in the manner provided by statute. Proof of service, either personal or by mail, shall be made by affidavit.
- F.** Reference to law and rules: Whenever reference is made to any portion of these rules or of any law of this state, the reference applies to all amendments and additions now or hereafter made.
- G.** Validity and separation: If any provision of these rules or the application thereof to any person or circumstances is held invalid, the remainder of the rules or the application of such provision to other persons or circumstances shall not be affected thereby.

**Historical Note**

Former Rules 1.2.01 through 1.2.07.

**R13-5-03. Scope**

Positions covered: The positions covered shall apply as provided for in A.R.S. § 28-235 and as outlined under the Merit System Council rules and regulations as provided for in A.R.S. § 28-235.

**Historical Note**

Former Rule 1.3.01.

**R13-5-04. Merit System Council**

- A.** Employees: The Council shall select and the agency head shall appoint and provide for the compensation of any personnel as is necessary to carry out and perform the powers, duties, purposes, functions and jurisdictions of the Council.
- B.** Business Manager: The Council shall select and the Director of the Department of Public Safety shall appoint a Business

Manager who shall be an officer of the Department of Public Safety but not a member of the Council.

- C.** Duties of Business Manager: The Business Manager shall perform and discharge all of the powers, duties, purposes, and functions hereunder or which by law may be vested in the Council except that the adoption of rules and regulations, the creation and adjustment of classifications and grades, compensation therefore, and investigation or hearing of appeals for dismissals, demotions, suspensions and other punitive action for or in the agency shall be and remain the duty of the Council. Any power, duty, purpose, function, or jurisdiction which the Council may lawfully delegate shall be conclusively presumed to have been delegated to the Business Manager unless it is shown that the Council by affirmative vote recorded in its minutes specifically has reserved the same for its own action. The Business Manager may re-delegate to his subordinates unless by Council rule or express provision of law he is specifically required to act personally.
- D.** Facilities: The Business Manager may secure such suitable and convenient offices, examination rooms, and accommodations throughout the state as may be required for the public convenience, and he shall expend Council funds for them for carrying on the work of the Council.
- E.** Supplies: The Business Manager shall acquire supplies and equipment necessary for carrying on the work of the Council.
- F.** Membership in personnel associations: Members of the Council and the Business Manager may join associations of personnel agencies having as their purpose the interchanging or supplying of information relating to the technique of personnel administration.
- G.** Headquarters: The headquarters of the Council is in the city of Phoenix.
- H.** Election of officers: The Council shall select its Chairman and Secretary from among its membership at a regular meeting in the month of December of each even-numbered year. They shall hold office for a period of two years or until their successors are elected.
- I.** Meetings: Upon call of the Chairman, or in his absence the Secretary, the Council shall meet as often as the needs of the agencies may require and in such places as it may designate. Council meetings shall be open to the public, and any interested person shall be given reasonable opportunity to be heard.
- J.** Quorum: A majority of the members of the Council constitutes a quorum. The vote of two concurring members shall be required to make any action of the Council effective.
- K.** Minutes: The Council shall keep minutes of its own proceedings and record its official actions. Such minutes and records shall be open to public inspection, subject to reasonable regulations.

**Historical Note**

Former Rules 2.1.01 through 2.1.11.

**ARTICLE 2. INVESTIGATION AND HEARINGS****R13-5-10. Investigation and hearings**

- A.** Initiative: The Council may hold hearings and make investigations concerning all matters relating to the enforcement and effect of these rules. It may inspect any place of employment covered by these rules to ascertain whether the Council rules are obeyed.
- B.** Request: The Council may make investigations and hold hearings at the direction of the governor or the legislature or upon the petition of an employee or a citizen concerning the enforcement and effect of these rules.
- C.** Effect of investigation or hearing: The Council may substitute its judgment for that of the agency head as to the justification of punitive action taken and determine whether the cause or

causes for the punitive action were substantially supported by the evidence.

- D.** Notice of hearing: Whenever a hearing is to be held, the Council shall notify the interested person or persons, parties thereto, personally or by registered mail of the time and place of the hearing.
- E.** Failure to appear: If a person shall fail to appear at the time and place set for the hearing or investigation, the Council may as a consequence thereof make any findings or awards as it may deem proper from the facts submitted.
- F.** Conduct of hearings: The Council may sit as a whole at a hearing or it may designate one of its members to hold the hearing. A transcript of the hearing shall be reviewed by a majority of the Council prior to making a decision in those cases where one member has been designated to hear a case. The member designated to preside at such hearing may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil cases in the Superior Court of this state.
- G.** Conduct of investigations: The Council may sit as a whole or it may designate one of its members or the business manager to conduct investigations. A written report of the results of an investigation conducted by a designated member or the Business Manager shall be reviewed by a majority of the Council prior to making a decision on the matter under investigation. The party conducting the investigation may require the production of books or papers and may cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil cases in the Superior Court of this state.
- H.** Witness fees: Witnesses, other than employees, at a hearing or investigation are entitled to the same fees as are allowed witnesses in civil cases in courts of record.
- I.** Payment of fees: If a witness is subpoenaed by initiative of the Council or its representative, fees and mileage may be paid from the funds of the Council when the amount is certified by the Council or the person authorized to conduct the hearing or investigation and a duly executed claim is presented. If a witness is subpoenaed by the Council or its representative upon request of the accused or any person other than the agency head, witness fees and mileage shall be paid by that person and are not proper charges against Council funds. Employees appearing as witnesses shall be entitled to travel expenses as provided by law from the funds of the agency.
- J.** Immunity: A person who claims privilege against self-incrimination prior to testimony or the production of books or papers shall not be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have testified or produced documentary evidence in any such hearing or investigation except for perjury committed in so testifying.
- K.** Depositions: The Council may authorize in writing any party to an action before the Council to cause the deposition of a witness under the following circumstances:

  - 1. The witness does not reside within the state or is out of state.
  - 2. The witness is too infirm to attend the action before the Council.
  - 3. The deposition is to be taken for the purpose of discovery in preparing a case before the Council.

Depositions so taken are made at the expense of the requesting party. If the presence of the witness cannot be procured at the time of the action before the Council, the deposition may be used in evidence by either party or the Council.
- L.** Disobedience of subpoena: If a witness fails to appear at the time and place designated in the subpoena, or fails to answer questions relating to the matter about which the Council or presiding member is taking testimony, or fails to produce a document, the Council or presiding member may, by affidavit setting forth the facts, apply to the superior court of the county where the hearing is held, and the court shall thereupon proceed as though such failure had occurred in an action pending before it.
- M.** Proceedings: All hearings and investigations authorized by these rules shall be governed by this rule of practice and procedure. In the conduct of any such hearing or investigation any informality in any proceeding or in the manner of taking testimony shall not invalidate any order, decision, or rule made, approved, or confirmed by the Council. In the conduct of a hearing or investigation, the Council or the presiding member shall not be bound by technical rules of evidence.
- N.** Open hearing: The hearing or investigation shall be open to the public and to persons involved as principal parties or witnesses. During the examination of any witness or when the defendant is making a statement or testifying, the Council or the presiding member may upon request exclude all other witnesses. Witnesses so excluded may be kept separate and prevented from communicating with each other until all are examined. The Council may upon request exclude from the examination every person except attorneys in the case, the official court reporter, and members of the Council. The proceedings at the hearing or investigation shall be stenographically or mechanically recorded so that a correct, certified transcript by a court reporter may be made. The defendant shall be entitled to a copy of the transcript upon payment of the costs thereof.
- O.** Legal counsel: Before the hearing of any appeal, each interested party shall designate for purposes of record the presence of his legal counsel. The member conducting the hearing shall advise each party without legal counsel that he is entitled to counsel and to obtain such counsel if he so desires and shall require a statement for purposes of record from each party as to his willingness to proceed without legal counsel. The hearing shall be postponed for a reasonable length of time for the purpose of obtaining legal counsel upon the request of any party without legal counsel. When a hearing has been reset upon a date agreed to by all parties, the hearing shall proceed, and the absence of legal counsel for any party shall be deemed voluntary rejection of such counsel. The Attorney General shall be the legal advisor of the Council and render such legal services as the Council requires.
- P.** Presentation of evidence: Both the employee and the agency head shall appear at the hearing or investigation and may present their evidence and witnesses either personally or through their chosen representatives. While evidence irrelevant to the causes set forth in the notice of action may be excluded, both parties shall be allowed reasonable latitude in the presentation of their evidence.
- Q.** Findings of fact: Whenever any employee or other person actively interested in a matter before the Council and in connection with which it is holding a hearing requests that the Council makes findings, then the Council shall make findings if such request is made at any time prior to the time the Council takes the matter under submission.
- R.** Settlement of disputes: Whenever any matter is pending before the Council involving a dispute between one or more employees and the agency head and the parties to such dispute agree upon a settlement or adjustment thereof, the terms of such settlement or adjustment may be submitted to the Council; and if approved by the Council, the disposition of the mat-

ter in accordance with the terms of such adjustment or settlement shall become final and binding upon the parties.

- S. Decision: The Council shall render a decision within a reasonable time after the hearing or investigation. The punitive action taken by the agency head shall stand unless reversed on appeal. In arriving at a decision the Council may consider any prior suspension or suspensions of the appellant or any prior proceedings under this rule. The decision shall be in writing and may contain findings of fact and its order for disposition of the case. The findings may be stated in the language of the pleadings or by reference thereto. The decision of the Council shall be binding and final except for appeal as provided in A.R.S. § 28-236, and the agency head shall forthwith put the same into effect.
- T. Petition for review: After a receipt of a copy of the decision rendered by the Council confirming the agency head's order, the employee may have the determination of the Council reviewed upon writ of certiorari from the superior court of the county in which the employee resides.
- U. Commencement of action: Unless otherwise provided for by these rules, no action or proceeding shall be brought by any person having or claiming to have a cause of action or complaint for wrongs or grievances based on or related to these rules or the administration thereof unless such action or proceeding is commenced and served within 120 days from the date the Department has probable cause or after such person discovered, or with reasonable diligence should have discovered, such cause of action or complaint.
- V. Rehearings or review of decision:
  - 1. Except as provided in rule R13-5-10(X), any party in a contested case before the Merit System Council who is aggrieved by a decision rendered in such case may file with the Council, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor.
  - 2. Not later than ten days after a decision is rendered, the Council may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. In such case the Council shall give the parties or their counsel notice and an opportunity to be heard on the matter.
  - 3. A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Council. A response may be filed within ten days after service of such motion or amended motion by any other party. The Council may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
  - 4. The Council may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in rule R13-5-10(W). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- W. Basis for rehearing or review: A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
  - 1. Irregularity in the administrative proceedings of the Council or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
  - 2. Misconduct of the Council or its hearing officer or the prevailing party;
  - 3. Accident or surprise which could not have been prevented by ordinary prudence;
  - 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
  - 5. Excessive or insufficient penalties;
  - 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
  - 7. That the decision is not justified by the evidence or is contrary to law.
- X. Decisions not subject to rehearing or review: If in a particular decision the Council makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Council's final decisions.

#### Historical Note

Former Rules 2.2.01 through 2.2.21; Amended effective May 26, 1978 (Supp. 78-3). Amended effective July 11, 1978 (Supp. 78-4). Amended effective December 18, 1978 (Supp. 78-6).

#### R13-5-11. General powers and duties

- A. Rules: The Council shall prescribe, amend, and repeal rules in accordance with law for the administration and enforcement thereof. Due notice of the contents of rules shall be given to the agency head and employees. Within a reasonable time after adoption, such rules and amendments shall be published in such manner as the Council determines and distributed free to employees and state agencies and at a reasonable cost to all others.
- B. Classification: Upon request of the agency head, the Council shall create and adjust classes of positions in the agency.
- C. Punitive action: The Council shall provide for dismissals, demotions, suspensions, and other punitive action for or in the agency.
- D. Roster: The Business Manager shall establish and maintain in suitable form an official roster of all persons holding positions in the agency service and enter thereupon their names, complete record of employment in the agency, and other facts prescribed by the Council.
- E. Hours and conditions of work: In order to secure substantial justice and equality among employees in the agency service, the Council may provide by rule for days, hours and conditions of work, taking into consideration the varying needs and requirements of the service and the prevailing practices for comparable services in other public employment and in private business.
- F. Exchange or transfer of employees: When the agency assumes responsibility for and there is transferred to it a function from any other state agency, the Business Manager may determine the extent, if any, to which employees employed by such other state agency on the date of transfer shall be entitled to have credited to them in the agency service, seniority credits, accumulated sick leave and accumulated vacation because of service with the former agency. The Business Manager shall limit such determination to the time any transferred employees were employed in the specific function or a function substantially similar while in the former agency and such seniority credits and accumulated sick leave and accumulated vacation shall not exceed that to which each employee would be entitled if he had been continuously employed in the agency service.

- G. Transferee status: All such employees transferred shall commence service with the agency as probationers.
- H. Enforcement of orders and decisions: All orders and decisions of the Council shall be obeyed by and are binding upon the agency heads and employees.

**Historical Note**

Former Rules 2.3.01 through 2.3.08.

**ARTICLE 3. CLASSIFICATION****R13-5-15. Classification**

- A. Position classification: The Council shall, from time to time, allocate or reallocate all positions to their currently appropriate classification; and shall also prepare position classification plans and necessary changes therein.
- B. Creation of classification; qualifications: The Council shall create and adjust classes of positions in the agency service. The classes adopted by the Council shall be known as the Personnel Classification Plan of the Arizona Law Enforcement Merit System Council. The classification plan shall include a descriptive title, a definition outlining the scope of the duties and responsibilities for each class of positions and the minimum qualifications required of applicants for employment or competitors in examinations.
  - 1. Official class specifications: The Business Manager shall maintain a master set of all approved class specifications. Such specifications shall constitute the Official Class Specifications in the Personnel Classification Plan. The copies of the specification for each class shall indicate the date of adoption or the last revision of the specifications for such class. Copies of the Personnel Classification Plan shall be open for inspection by employees and the public under reasonable conditions during business hours.
- C. Allocation of positions: Every position in the agency service shall be allocated by the Business Manager to the appropriate class in the classification plan. The allocation of a position to a class shall derive from and be determined by the ascertainment of the duties and responsibilities of the position and shall be based on the principle that all positions shall be included in the same class if:
  - 1. Sufficiently similar in respect to duties and responsibilities that the same descriptive title may be used;
  - 2. Substantially the same requirements as to education, experience, knowledge and ability are demanded of incumbents;
  - 3. Substantially the same tests of fitness may be used in choosing qualified appointees;
  - 4. The same schedule of compensation can be made to apply with equity.
- D. Modification: From time to time as it deems necessary, the Council may establish additional classes and divide, combine, alter, or abolish existing classes. When such actions are taken, the Council shall determine in each instance whether positions affected are to be reallocated to another class or classes after taking into account the duties and responsibilities, qualifications, performance standards, and other related criteria before and after the change and shall determine the status of the probationary and permanent employees affected.
- E. Appeal from allocation: Reasonable opportunity to be heard shall be provided by the Council to any employee affected by the allocation or reallocation of his position.
- F. Reclassification of reallocation: The Business Manager shall change the classification of an existing position when a material and permanent change in the duties and responsibilities of the position occurs. If the position is occupied at the time of

reallocation, the employee in the position may be reclassified provided that:

1. They have been in the position at least six months;
  2. They occupied the position during the change in duties;
  3. They meet the minimum qualification of the new classification;
  4. They pass any required examinations. The employee shall serve the required probationary period. Other changes in status of the incumbent may be accomplished only in accordance with these rules relative to layoff, transfers, demotion or promotion.
- G. New positions: Positions in the agency service shall be established by the agency head as authorized by law subject to budgetary authorization and the availability of funds. The agency head shall promptly report to the Council his intention to establish new positions in order that such positions may be classified and allocated, and shall so report material changes in the duties of any position in his jurisdiction.
  - H. Classification title: The classification title approved by the Council shall be used in all communications relating to personnel and in all budget and financial records.
  - I. Military designations for supervisors: The Director of the Department of Public Safety may apply the use of any of the following military terms and insignia to any uniformed supervisory employee, regardless of classification or pay status, for the purpose of indicating to the public and other employees the relative authority such supervisory employees may exercise over all other employees:
    1. Colonel,
    2. Lieutenant-Colonel,
    3. Major,
    4. Captain,
    5. Lieutenant,
    6. Sergeant,
    7. Corporal.

**Historical Note**

Former Rules 3.0.01 through 3.0.09; Amended effective June 7, 1978 (Supp. 78-3). Amended effective October 24, 1978 (Supp. 78-5).

**ARTICLE 4. COMPENSATION****R13-5-20. Compensation**

- A. Normal work week: Because it is the policy of the state that the normal work week of state employees shall be 40 hours, the normal work week of agency employees shall be 40 hours, except that work weeks of different numbers of hours may be established by the agency head in order to meet the needs of the service.
- B. Unusual work schedules: When the agency head finds it impossible or impracticable to establish a normal work week for a class or group of positions due to the unpredictable nature of the extent of the work to be required, the Council may authorize an hourly rate of pay for time worked by employees in such positions commensurate with the appropriate grade and rate of pay on the approved Salary Plan.
- C. Compensation in full: Except for nonscheduled overtime compensation, employees shall receive the salary or wage prescribed for their respective class as compensation in full therefor and shall not, under any pretext, receive any excess salary, wage, fee, gratuity, or emolument for their personal services to or on behalf of the state unless otherwise authorized by law.
- D. Reimbursement: Reimbursement for expenses incurred shall not be prohibited by these rules, except that expense reimbursement claims shall not be duplicated to the state and/or any political subdivisions thereof by any employee.

## Law Enforcement Merit System Council

- E.** Compensation plan: The Business Manager shall, from time to time, initiate and prepare compensation plans and necessary changes therein for presentation to the Council for their consideration and approval, and which shall be effective only when approved by the Council.
- F.** Salary ranges: The Council shall establish and adjust salary ranges for each class of positions in the agency service. The salary range shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities. In establishing or changing such ranges, consideration shall be given to the prevailing rates for comparable service in other public employment and in private business. The Council may make a change in salary range retroactive to the date of application for such change.
- G.** Hearings: Reasonable opportunity to be heard shall be provided by the Council to any employee affected by a change in the salary range for the class of his position. A salary range shall be considered as substantially the same as another range when the maximum salary is the same as or within one step of the +maximum of such other range, and a range shall be considered to be higher or lower when the maximum salary is at least two steps higher or lower than the maximum of such other range.
- H.** Limits and intermediate steps: Salary ranges shall consist of minimum and maximum salary limits. The Council shall provide for intermediate steps within such limits to govern the extent of the salary adjustment which an employee may receive at any one time, provided that in classes and positions with unusual conditions or hours of work or where necessary to meet prevailing rates and practices for comparable services in other public employment and in private business the Council may establish more than one salary range or rate or method of compensation within a class.
- I.** Merit salary adjustment: After completion of a satisfactory probationary period in a position and thereafter, each employee shall receive a merit salary adjustment as provided for in the salary compensation plan upon his employment anniversary date equivalent to one of such intermediate steps when he meets such standards of efficiency as these rules prescribe. When the employee receives an overall performance rating of "unacceptable" on his service evaluation report, his salary shall be reduced one step (or his next merit salary adjustment shall be postponed) for the number of months between the effective date of his performance rating of "unacceptable" and the effective date of his next periodic performance rating of "standard".
- J.** Qualifying service for merit salary adjustment or seniority: Service, to be counted as qualifying for a merit salary adjustment or seniority, must have been:
  - 1. Under permanent appointment or under provisional, emergency or limited-term appointment when followed by permanent appointment without any break in continuity of service;
  - 2. In the same class or in another class with substantially the same or a higher salary range;
  - 3. Uninterrupted from agency service except as provided by subsection (K) (Effect of break in service); or
  - 4. Satisfactory as evidenced by an overall employee performance rating of "standard" or better. The employee evaluation report to be considered shall be the last report authorized or required to be filed for the employee by these rules, except that an overall below-standard performance rating received by the employee in a higher class shall not be considered.
- K.** Effect of break in service:
  - 1. Periods of absence from agency service for the following reasons shall not be counted as qualifying service:
    - a. Resignation;
    - b. Retirement;
    - c. Leave of absence without pay in excess of 30 days; or
    - d. Suspension or layoff in excess of 30 days.
  - 2. Periods of absence from agency service for the following reasons shall be counted as qualifying service when authorized by the agency head:
    - a. Vacation, compensating time off;
    - b. Sickness, injury;
    - c. Temporary military training;
    - d. Military service and subsequent periods of rehabilitation;
    - e. Jury duty;
    - f. Leave of absence wherein employee is loaned to another governmental agency for the performance of a specific assignment and is paid by such governmental agency or by the agency governed under these rules;
    - g. Leave of absence without pay for 30 days or less, or
    - h. Suspension or layoff for 30 days or less.
- L.** Insufficiency of funds: Salary adjustments shall be made for employees in the agency service in accordance with these rules. If there is not sufficient money available for the purpose in the appropriation from which agency salaries shall be paid, employees shall be assigned leave of absence without pay by the agency head under the layoff procedures prescribed by these rules until sufficient funds are accrued to permit their re-employment.
- M.** Special adjustments: The agency head may authorize payment at any step above the minimum salary limits in order to meet recruiting problems or, to give credit for prior agency service, or for special duty assignments, in connection with appointments, promotions, reemployments, transfers, reallocations, or demotions. Other salary adjustments within the salary range for the class may be made by the Council upon application of the agency head. Adjustments within the salary range authorized by this rule may be either permanent or temporary. An employee may receive special duty assignment pay only for the period of time he is performing the required duties of the position.
- N.** Rate above maximum: Employees in a particular class shall receive a salary within the limits established for that class provided that when a position has been allocated to a lower class or the salary range or rate of pay of the class is reduced, the agency head may authorize the payment to an employee of a rate above the maximum of the class. During such time as an employee's salary remains above the maximum rate of pay for his class, he shall not receive further salary increases.
- O.** Entrance rate: The minimum limit in the salary range for each class is the entrance rate except as otherwise provided in these rules. A merit salary adjustment anniversary date is established for the employee.
- P.** Rate on movement to class with lower range: Except for a demotion in lieu of layoff, an employee who moves to a class with a lower salary range may receive, if authorized by the agency head, a rate above the minimum. This rate shall not exceed the rate to which he would be entitled if his services in the higher class had been in the class to which demoted. A new merit salary adjustment anniversary date is established for the employee.
- Q.** Rate on movement to class with the same or higher range: An employee moving to another classification with a similar or higher salary range shall be entitled to the next pay range

higher than the one he would have received on his next merit salary adjustment if he had stayed in the same classification. A new merit salary adjustment anniversary date is established for the employee.

- R. Full-time and part-time rates: The salary range for each class represents the rate of pay for normal full-time monthly employment unless the compensation plan states otherwise. Where there is part-time or irregular employment in a position for which a monthly salary is established, the employee shall be paid on an hourly basis for the time actually employed.
- S. Conversion of rates: Monthly or hourly rate of pay may be converted from one to the other when the agency head considers it advisable. In such a conversion, a 40-hour week is equivalent to a 173.33-hour month. All monthly wages are based on a 40-hour week. Rates resulting from such conversions shall be rounded to the nearest dollar.
- T. Rate upon re-employment after permanent separation: A former employee, upon re-employment, shall receive the entrance rate for his class unless otherwise authorized by these rules.
- U. Rate upon re-employment after layoff: A person who is employed from a re-employment list after layoff may receive a salary above the entrance rate for his current class. Such salary shall correspond to one of the steps within the salary range for his current class and shall not exceed the salary he would receive if he had been re-employed in his former class, if not re-employed in the same class as at time of layoff.
- V. Automatic salary adjustment: A class salary range adjustment shall apply equally to all employees within this class and shall not alter anniversary dates for merit salary adjustments. Salary adjustments shall be made in such order that the employee shall gain the maximum benefit from the adjustments.
- W. Attendance records: The agency head shall cause complete and accurate time and attendance records to be kept for each employee over which he has jurisdiction.
- X. Certification of payroll:
  - 1. All payroll vouchers and accounts or demands containing the names of employees claiming amounts due them as salaries or wages for services rendered shall be submitted to the agency head or his lawfully appointed deputy before any sum of money is disbursed in payment thereof.
  - 2. If upon examination the agency head or his deputy finds payroll vouchers and accounts or demands to be in conformity with these rules, he shall make certification to such effect thereon. No person shall draw or sign any warrant or check or otherwise pay any person any amount to which the agency head or his deputy has taken exception.
  - 3. The Business Manager shall review all agency payrolls to ascertain that all employees are paid in accordance to Merit System Council classifications and rules. If the Business Manager finds any employee not being paid in accordance, the Business Manager shall then strike that employee from the payroll.
- Y. Special duty assignments
  - 1. Positions designated as special duty assignments may be compensated at a rate higher than that specified for the classification. Such special duty assignments are temporary and are not promotions as defined by these rules.
  - 2. Special duty assignment pay will only be awarded to those employees who meet the requirements prescribed for such assignment and who are actually performing in that capacity.
  - 3. Employees occupying more than one special duty assignment position may only be compensated for one such

assignment. The determination of which one of the multiple special duty assignments the employee will be compensated for will be at the discretion of the agency head.

- 4. The compensation rate for special duty assignments will be determined by adding the designated special duty assignment pay to the employee's classification salary grade. Compensation for a special duty assignment position will not alter the employee's relative position in the intermediate steps of the compensation plan.

#### **Historical Note**

Former Rules 4.0.01 through 4.0.26; Amended effective November 2, 1978 (Supp. 78-6).

### **ARTICLE 5. GENERAL ENTRANCE AND PROMOTION PROVISIONS**

#### **R13-5-25. General entrance and promotion provisions**

- A. Establishment of eligible lists: Eligible lists shall be established as a result of free competitive examination open to all persons who lawfully may be appointed to any position within the class for which such examinations are held and who meet the minimum qualifications requisite to the performance of the duties of such position as prescribed by the specifications for the class or these rules.
- B. General re-employment lists: For each class there shall be maintained a general re-employment list consisting of the names of all persons who have occupied positions with probationary or permanent status in the class and who have been laid off or demoted in lieu of layoff. Within one year from the date of his layoff in good standing, or his voluntary demotion, the name of an employee who had probationary or permanent status may be placed on the general re-employment list with the consent of the agency head. The general re-employment list may also contain the names of persons placed thereon in accordance with other provisions of these rules.
- C. Order of names: The order on which names appear on re-employment lists shall be determined by the relative order of the combined scores of efficiency and seniority as for layoff.
- D. Removal of names: Any name, after a period of three consecutive years, shall be removed from the re-employment lists for the class unless the period is extended by the Council.
- E. Changes in lists: The Business Manager may make changes in records to correct clerical errors both before and after the announcement of an eligible list, provided that any changes of rank, or addition or subtraction of names, made on lists of eligibles because of clerical errors or re-ratings, shall not change the date of the adoption of such lists, nor give to any persons the right to claim beginning date of eligibility other than the date of the promulgation or adoption of the original eligible list that created their eligibility.
- F. Expiration: The duration of each entrance or promotional list shall begin with the date of the promulgation thereof, and shall expire one year thereafter unless such duration is reduced, canceled, or extended by the Council.
- G. Reduction: After a list has been in effect for a period of not less than six months, its duration may be reduced or canceled by the Council.
- H. Extension: Prior to expiration of a list, the duration of the list may be extended by the Council.
- I. Notification: When the duration of a list is reduced, canceled, or expired, all persons whose names appear thereon shall be notified and, provided they possess the current minimum qualifications for the classification involved, given the opportunity to compete in the examination, if any, given to establish a new list for the classification.
- J. Classification abolished or divided: An entrance or promotional list for a classification shall be deemed canceled if the

classification for which it was established is abolished. If a classification is divided, the list therefor may likewise be divided and the names of the eligibles thereon being placed on one or both new lists established on the basis of compliance with the minimum qualifications prescribed for such classifications. If two or more classifications are consolidated, the lists therefor may likewise be consolidated. When lists are so divided or consolidated, a formula rating may be applied to the education and experience of eligibles involved for the purpose of determining their order or rank on the new lists.

#### Historical Note

Former Rules 5.1.01 through 5.1.10.

#### R13-5-26. Examinations

- A. Competitive examination: Examinations for the establishment of eligibility lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness and ability of competitors actually to perform the duties of the classification for which they seek appointment.
- B. Type of examination: Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skill, or any combination of these; and any investigation of character, personality, education and experience, and any tests of intelligence, capacity, technical knowledge, manual skill, or physical fitness.
- C. Minimum qualifications: The minimum qualifications established by the Council for each classification shall be used as a guide for determining the fitness and qualifications of employees, provisional appointees, or applicants for examinations; and for such purposes the Council may require such certificates of citizens, physicians, public officers, or others having knowledge of the applicant, as the good of the service may require. Satisfactory documentary evidence of citizenship, education, physical condition, honorable discharge from the armed forces of the United States, possession of valid licenses for various purposes, or other necessary evidence of identification, fitness, and qualifications shall be furnished to the Business Manager upon his request at the sole expense of the applicant.
- D. General qualifications: All candidates for, appointees to, and employees in the agency service shall possess the general qualifications of integrity, honesty, sobriety, dependability, industry, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, good health, and freedom from disabling defects. Where the position requires the operation of a motor vehicle, the applicant must have a valid Arizona operator's license at the time of appointment. The foregoing general qualifications shall be deemed to be a part of the personal characteristics of the qualifications of each classification specification and need not be specifically set forth therein. The Council may prescribe alternative or additional qualifications for individual classifications and such shall be made a part of the classification specifications.
- E. Waivers: The Council may establish any legal minimum or maximum age limit for any examination or classification. Minimum qualifications may be waived by the Council whenever insufficient applications for an examination indicate such necessity. To be effective, waivers shall be published as a part of the original examination announcement or supplements thereto. Waivers shall apply only to the examination for which the waivers are announced.
- F. Announcement: Examinations shall be held at such times and places as the Council or the Business Manager may determine. The Business Manager shall direct the preparation of every examination and the publication of an announcement of advertisement thereof within a reasonable time before the scheduled date of the examination. Such announcements shall contain information concerning:
  1. The date and place of the examination;
  2. Duties and salary range of the class;
  3. The nature of the minimum qualifications; and waivers, if any;
  4. Eligible classes, if a promotional examination;
  5. The general scope of the examination;
  6. The relative weight of its several parts if more than one type of test is to be used;
  7. Source of application forms;
  8. Closing date for receipt of applications;
  9. The length and life of the eligible list to be established thereby;
  10. Such other information as may be required by Council rule;
  11. Such other information as the Business Manager deems applicable or informative.
- G. Application: Every applicant for examination shall file a formal signed application with the Council. All applications shall be filed at the place, within the time, in the manner, and on the form specified in the examination announcement. A separate application shall be filed for each examination unless otherwise specified in the examination announcement. Approved applications shall remain on file in the office of the Council for at least one year and thereafter until ordered destroyed by the Council. Applications rejected for any reason may be destroyed after six months at the discretion of the Council. Under no circumstances shall applications or examinations be returned to applicants after final submission. Blank application forms shall be furnished without charge to all persons requesting them. Such applications when filed and all other examination materials, including examination questions and booklets, are the property of the Council and are confidential records open to inspection only if and as provided by Council rule.
- H. Rejection of application: The Business Manager shall examine each application for examination and determine if the applicant appears to meet the minimum qualifications prescribed for the class. The Business Manager may return any application that is incomplete or reject any application which shows that the applicant does not meet the minimum qualifications prescribed for the class.
- I. Eligibility:
  1. Any person who comes under any of the following categories may be refused admittance to any examination, or may not be declared as an eligible, or may not be certified prior to appointment, if he:
    - a. Lacks any of the requirements established by the Council for the examination or position for which he applies;
    - b. At the time of examination has permanent status in a position of equal or higher class than the examination or position for which he applies;
    - c. Is physically or mentally so disabled as to be rendered unfit to perform the duties of the position to which he seeks appointment;
    - d. Is addicted to the use of intoxicating beverages to excess;
    - e. Has been convicted of any crime involving the use of a motor vehicle and intoxicating beverages;
    - f. Is addicted to the use of narcotics or habit-forming drugs;
    - g. Has been convicted of any crime involving the use of a motor vehicle and narcotics or habit-forming drugs;



- h. Has been convicted of a crime involving moral turpitude;
  - i. Is charged with any crime, which upon conviction, would cause denial of eligibility under this rule;
  - j. Has been dismissed from any position for any cause which would be a cause for dismissal from the agency service;
  - k. Has intentionally attempted to practice any deception or fraud in his application, in his examination, or in securing his eligibility; or has failed to file a complete and proper application for examination;
  - l. Has declined appointment to full-time employment after certification;
  - m. Has failed to reply within a reasonable time to communications concerning his availability for employment;
  - n. Has made himself unavailable for employment by requesting that his name be withheld from certification;
  - o. Is, in the opinion of the agency head, unsuited or not qualified for employment;
  - p. Directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition, or treason against the government of the United States and/or this state, or refuses to subscribe to the Oath of Loyalty set forth in Council rules.;
  - q. Has taken part in the compilation, administration or scoring of the examination;
  - r. Has used or attempted to use political pressure or bribery to secure an advantage in any examination or in securing an appointment from an eligible list established as a result of any examination.
2. Upon request of the Council, the agency head or other responsible person shall furnish to the Council an explanation of the reason or reasons for the rejection of an applicant under this rule.
- J.** Authorization to take examination: Each applicant shall be notified of the approval or disapproval of his application. The applicant's authorization to take the examination shall be in such form as may be prescribed by the Business Manager.
- K.** Questions approved and sealed: All examinations shall be approved by the Business Manager in advance of the examination. In transmitting material containing examination questions, each package thereof shall be securely sealed and marked. The seal shall not be broken until the beginning of the examination and then only in the presence of all the competitors and by the authorized agent of the Business Manager.
- L.** Explanations: All necessary explanations shall be made to the whole group taking the written examinations and no question shall be explained to any individual competitor. Examiners shall not make any comment that may assist any competitor to answer any question.
- M.** Prohibited acts: Communication between competitors during examination is strictly forbidden; and competitors are forbidden to receive any unauthorized assistance in the examination. Before the commencement of an examination, competitors shall be required to hand to the examiner any unauthorized printed or written manner in their possession that might serve to aid them in the examination. Evidence of copying or collusion may result in the cancellation of his examination and the debarment of the competitor from future examinations of any kind. Copies of the questions in the examination shall not be made or taken from the examination room except for the purposes of administration authorized by Council rule.
- N.** Identity concealed: Written examinations shall be so managed that no examination paper will disclose the name or identity of any applicant until all the examination papers have been marked.
- O.** Identification number: Each competitor shall write his name and address upon a declaration sheet or card which must have printed upon it a serial number, to be known as his identification number. The competitor shall mark upon each examination sheet his identification number. When the examination papers have been scored, the declaration sheets or cards shall be unsealed; and the examination papers shall be assigned to the names of the persons who wrote them.
- P.** Prohibited marks: Any competitor in any written examination who places any identifying mark upon his examination papers, other than his identification number, may be deprived of all benefits under such examination.
- Q.** Rating of written examinations: All examination papers shall be marked and graded under the direction of the Business Manager and in accordance with the examination announcement. When, in the course of grading a competitor's papers, it becomes apparent that he would receive a general average score less than the minimum score for eligibility fixed by the Business Manager or that he would receive less than the minimum score required on a given portion of the examination, the competitor shall be considered as having been disqualified and the marking of his papers need not be completed.
- R.** Inspection of examination papers: Examination papers shall be open to inspection only as provided by Council rule.
- S.** Time for inspection: Except as otherwise provided herein, upon written request filed in the office of the Council within ten days after notice of the result of his examination has been mailed to him, any competitor may inspect his examination papers at such location as may be designated by the Business Manager. Such inspection shall be under the supervision of the Business Manager. Examination papers containing copyrighted or standardized examinations shall not be available for such inspection. Competitors desiring to inspect their examination papers at other than the Phoenix office of the Council may be charged a fee to compensate the state for the actual expenses incurred in providing such special inspection accommodation.
- T.** Who may inspect: A competitor's examination papers shall be open to inspection only by the Council, the Business Manager, the competitor, his attorney upon written authorization of the competitor, or the agency head.
- U.** Copying prohibited: Copying questions or answers contained in written examination papers, making erasers or alterations in the markings on the papers, or any mutilation thereof by any person is forbidden. Evidence that a competitor or his attorney has copied from, altered, or mutilated an examination paper may result in the competitor's debarment from competition in future examinations or the cancellation of the competitor's eligibility for employment, or both.
- V.** Inspection of written examination: During regular office hours in the two calendar days beginning on the first work day after a written examination has been held and at the office of the Council or such other place as may be designated by the Business Manager, any competitor may inspect a keyed copy of the questions in his examination for the express purpose of requesting review of such items as the competitor may believe are incorrectly or improperly keyed. Keyed copies of copyrighted or standardized examinations shall not be available for review. The Business Manager may also provide that there will be no key inspection privileges if notice of the suspension of this privilege is made a part of the written examination

instructions given to each competitor at the time of the written examination.

- W.** Appeal from written examination: The competitor may, during the period of inspection provided in this rule, file with the Business Manager a written appeal from any part of the test, citing the item or items against which the appeal is directed and stating the reason for such appeal. The examination shall not be scored until all the disputed items have been reviewed and appropriate adjustment, if any, made by correction in the scoring key or elimination of the disputed items. In no event is the Business Manager required to furnish keyed copies of questions of an essay or problem type when in his judgment such questions are not subject to scoring by an absolute standard. In addition, a written appeal may be made from the result of the written examination on the grounds of fraud or clerical error in scoring the papers. Such appeal shall be filed at the office of the Council within ten days after notice of the result of his examination has been mailed to the competitor filing the appeal.
- X.** Formula rating: In any examination, the appraisal of education and experience of the competitors may be made by formula applied to the information and data given on their official application. Such appraisal may be made without interview by a qualifications appraisal board and without evaluating the personal qualifications of the competitors.
- Y.** Qualifications appraisal boards: The education, experience, and personal qualifications of competitors may be rated by the qualifications appraisal boards after interviewing the competitors and making such investigations as may be found necessary.
- Z.** Composition of boards for employees: Each such qualifications appraisal board may include: One representative of the Council who shall be chairman of the board; and, whenever feasible, one or more citizens who shall not have held elective public office within one year preceding appointment as a member of the qualifications appraisal board and who are qualified to appraise the education, experience, and personal qualifications of competitors. The chairman of the board shall determine the number of citizen members of each such qualifications appraisal board and shall select and appoint such citizen members. If one or more of the members of the qualifications appraisal board is not present during all or part of the proceedings, the qualifications appraisal board may nevertheless proceed. The chairman of the qualifications appraisal board may fill any vacancy according to the standards stated in this rule. Except in a promotional examination, a member of the board shall disclose each instance in which he knows the applicant personally and shall not rate such applicant. The Business Manager shall notify the Council in advance of any qualifications appraisal board and the purpose of it so that the Council can determine who shall be qualified to act as chairman.
- AA.** Competitive ratings: Rating of education, experience and personal qualifications by qualifications appraisal boards shall be made on a competitive basis in that each competitor shall be rated thereon in relation to the minimum qualifications for the class in question and in relation to the comparable qualifications of other competitors.
- BB.** Minimum qualifying ratings: Ratings of education, experience, and personal qualifications shall be made independently by each qualifications appraisal board member on forms prescribed. Such ratings may be made either before or after discussion by the qualifications appraisal board. Each member shall sign his forms and deliver them to the chairman of the qualifications appraisal board. Ratings accorded competitors shall be expressed numerically, with 70 being the minimum qualifying rating.
- CC.** Below qualifying rating: When a competitor is rated below 70 by a member of the qualifications appraisal board, the chairman of the qualifications appraisal board shall make a record of the reason or reasons for such rating on the chairman's rating sheet and this shall be initialed by the member.
- DD.** Average rating: The ratings of the several members of the qualifications appraisal board shall be averaged to determine each competitor's final rating on education, experience, and personal qualifications.
- EE.** Majority rating: If the average rating is below 70 but a majority of the members of the qualifications appraisal board assigns at least the required rating of 70, the competitor shall be given a rating of 70. If a majority of the members of the qualifications appraisal board assigns a rating below 70, the competitor shall be disqualified regardless of the fact that his average rating may be 70 or more.
- FF.** Rating of personal traits: As an alternative method, the qualifications appraisal may consist of a formula rating of education and experience and a finding by a qualifications appraisal board as to whether the competitor is acceptable from the standpoint of prescribed personal traits. The evaluation of education and experience shall be determined on the basis of a previously determined formula. If the competitor is found to possess the required education and experience, he shall appear before the qualifications appraisal board. If a majority of the members of the qualifications appraisal board finds that the competitor is acceptable from the standpoint of required personal traits, the qualifications appraisal board shall find him qualified but shall give him no numerical rating. If a majority of the qualifications appraisal board find that the competitor is not acceptable from the standpoint of required personal traits, such members shall record their reasons for such findings; and the competitor shall thereby be disqualified.
- GG.** Special inquiry: In examinations for classes of trust or involving the handling of money, the exercise of the powers of peace officers, law enforcement or regulation, the handling of information involving crimes or criminals, the collection of taxes or investigations connected therewith, the care or custody of wards of the state, or otherwise requiring the competitors to be of high moral standards and integrity, the Business Manager or the qualifications appraisal board shall, and in any other examinations may, make special inquiry into the past records of all competitors and shall disqualify any whose records or reputations shall in his or their judgment warrant such action. The Council shall be furnished an explanation of the reason or reasons for the disqualification of a competitor under this rule.
- HH.** Appeal from qualifications appraisal board: Within ten days after the notice of the result of his examination has been mailed to him, a competitor may file with the Business Manager at the office of the Council a written appeal citing grounds of irregularity, bias, or fraud in the conduct of the investigation or interview or of erroneous interpretation or application of the minimum qualifications presented for the class.
- II.** Hearing: Prior to the time when the Council hears the appeal, the members of the qualifications appraisal board and all other interested persons shall be notified of the time and place of the hearing.
- JJ.** Appeal granted: If the Council grants the appeal, it may give the competitor a rating of 70 or more on education, experience, and personal qualifications.
- KK.** Rating method: The final earned rating of each person competing in any examination shall be determined by the weighted average of the earned ratings on all phases of the examination.

**LL.** **Weights:** The weights assigned to the various parts of an examination represent the relative value of each part in the whole examination. Weights for each phase shall be established by the Business Manager in advance of the giving of the examination and published as part of the announcement of the examination. Unless otherwise stated in the examination announcement for examination consisting of both these parts, the weights shall be: Written test, 40 percent; Qualifications appraisal, 60 percent.

**MM.** **Computing examination score:**

1. The method of obtaining the average percentage of the examination is as follows:
  - a. Multiply the rating obtained in each part of the examination by the relative weight of that part;
  - b. Add the products;
  - c. Divide the sum of the products by the sum of the relative weights.
2. The quotient obtained will be the average score for the examination. To this average score shall be added an amount equal to five percent of such score for veterans with recognized military service.

**NN.** **Minimum qualifying rating:** Competitors shall be required to attain a score of not less than 70 in each part of the examination and a general average score of not less than 70 in order to qualify in an examination.

**OO.** **Adjusted score:** In written tests, the 70 used to represent the minimum score need not be the arithmetic 70 percent of the total possible score but may be an adjusted score based on a consideration of the difficulty of the test, the quality of the competition, and the needs of the service. Any such adjusted score shall be established by the Business Manager before identification of the competitor's examination papers.

**PP.** **Qualifying for lower class:** When an examination is held for any given class and if there is also being held an examination for a lower class in the same series, it shall be within the discretion of the Business Manager to pass a competitor for a place on the eligible list for the lower class if the competitor attains a passing score for the examination for the lower class but does not receive a passing score in the examination in which he is competing.

**QQ.** **Notice of examination result:** As soon as the scoring of an examination has been completed and the eligible list established, each competitor shall be notified by mail of the results of his examination and, if successful, of his general average score and his relative position upon the resulting employment list.

**RR.** **Establishing list in case of tie:** Two or more competitors receiving the same rating in an examination shall be placed on the resulting list according to their respective ratings attained in the chief essential of the examination. If the foregoing does not result in placement, further determination may be made by application of actual written test scores, and then by length of service in current classification.

**SS.** **Order of names:** In establishing any eligible list of promotional list following an examination, the names of persons who have attained the passing mark in such examinations shall be placed on the list in the order of final earned ratings, except as such order may be modified by the application of veterans preference credits.

**TT.** **Length of list:** When the order of names has been determined after applying the appropriate veterans preference credits, the Business Manager may thereafter limit to suit the needs of the service the number of names to be placed on the employment list.

**UU.** **Certificates of competence:** Certificates of competence may be issued to candidates who are successful in certain phases of

examinations involving a particular knowledge, ability or skill. For the period named in such a certificate, the certificate may be accepted as evidence of the candidate's competence in lieu of participation in that phase of an examination.

**VV.** **Continuous testing:** For classes of positions for which it is found difficult to maintain adequate eligible lists, applications may be received, examinations may be conducted, and eligible lists created continuously. The names of eligibles who took the same or a comparable examination on different dates may be ranked for purposes of certification in the order of final earned ratings, except as such order may be modified by the application of veterans preferences. Eligibility from a continuous examination may be deemed to be established as of the date of examination.

**WW.** **Merging entrance eligibility lists:** When there are names remaining on an eligibility list and there is a need for additional names to draw from, a new examination may be given and both lists then merged in qualifying order.

#### **Historical Note**

Former Rules 5.2.01 through 5.2.49; Amended effective November 14, 1977 (Supp. 77-6). Amended effective May 26, 1978 (Supp. 78-3). Amended effective November 20, 1978 (Supp. 78-6).

#### **R13-5-27. Promotion**

- A.** **Promotional lists:** Vacancies in promotional positions shall be filled from among employees holding positions in appropriate classes, and appropriate promotional lists shall be established to facilitate this purpose. Every employee having the qualifications and showing willingness and ability to efficiently perform service assigned to him shall be permitted to advance according to merit and ability.
- B.** **Examination:** Whenever the needs of the service require, the Business Manager shall announce and provide for promotional examinations for purposes of establishing promotional lists.
- C.** **Eligibility:** Promotional examinations shall be limited to employees holding positions with permanent status in a class appropriate for the examination. If the examination is to establish a district or section promotional list, applicants shall be limited to permanent employees holding positions in the district or section.
- D.** **Qualifications:** No employee may participate in a promotional examination unless he has the minimum education and experience qualifications and any license, certificate or other evidence of fitness prescribed for the classification for which the examination is given.
- E.** **Performance report:** To be eligible to participate in a promotional examination, overall performance ratings of at least "standard" are required for the employee's last one year of service.
- F.** **Resignation of promotional eligible:** An employee shall relinquish his right of promotion if such employee:
  1. Resigns from agency service.
  2. Refuses to accept promotion.
 The name of any employee who relinquishes his right to promotion shall be removed from the promotional list.
- G.** **Merging promotional eligibility lists:** When there are names remaining on a promotional eligibility list and there is a need for additional names to draw from, a new examination may be given and both lists then merged in qualifying order.

#### **Historical Note**

Former Rules 5.3.01 through 5.3.07; Amended effective February 18, 1977 (Supp. 77-1). Amended effective November 20, 1978 (Supp. 78-6).

**R13-5-28. Veteran's preference**

- A.** Age limit: A veteran of the Army, Navy, Marine Corps and Coast Guard of the United States, holding an honorable discharge therefrom and who qualifies under the United States Veterans Administration or as defined in A.R.S. § 42-276, shall be eligible to apply for and receive employment regardless of age, if otherwise qualified, subject only to the requirement that he is below the regular retirement age at the time of entering the employment. (Ref.: A.R.S. § 38-491).
- B.** Percentage of preference: A veteran of the Army, Navy, Marine Corps and Coast Guard of the United States, holding an honorable discharge therefrom and who qualifies as a veteran under the United States Veterans Administration or as defined in A.R.S. § 42-276, who takes an examination pursuant to application for employment shall, in the determination of his final rating on such examination, be given a preference of five percent over persons other than veterans, which shall be added to the grade earned by him, but only if such veteran earns a passing grade without preference. (Ref.: A.R.S. § 38-492).
- C.** Order of names; ties: The veteran shall be eligible for employment in the order and on the basis of the rating attained in the examination after the appropriate percentage credit has been added. All ties shall be decided in favor of veterans.
- D.** Restoration:
  - 1. An employee, having been inducted or ordered into active service in the armed forces of the United States after 1 August 1939, and having served in the armed forces and qualifying under the United States Veterans Administration or as defined in A.R.S. § 42-276, shall, upon completion of his service, be restored to the position held by him at the time of induction or of reporting for service, or to a position having similar or other duties which he is qualified to discharge, and of like status and pay, if such employee:
    - a. Possesses a certificate of satisfactory training and service or honorable discharge issued by the proper military or naval authority;
    - b. Is still qualified to perform the duties of the position.
    - c. Applies for restoration within 60 days after separation from the armed forces;
  - 2. For the purposes of computing seniority, retirement and other employment benefits, all service of an employee ordered into military service as contemplated by law, shall be counted as continuous service with the agency; provided, however, that such military service was immediately preceded by agency service and qualification for restoration is made within the time provided.
- E.** Promotion: An employee in recognized military service, whose name appears on a promotional list, appointment from which would accord permanent status, shall be retained on such list and have his name certified to fill any vacancy which may occur during the period his name is so retained on such list; provided, however, the employee is qualified for restoration. The agency head may appoint him to fill the position to take effect upon his return to agency service.
- F.** Examination: An employee in recognized military service shall be entitled to take the identical promotional examination he would have been entitled to take had he continued to hold the position last held prior to entrance into recognized military service. Upon restoration, the examination shall be held if then requested by the employee. If the employee qualifies in the examination, his name shall be appropriately placed on the list that resulted from the original examination. He shall retain his place on the list for one year from the date such eligibility is established.

**Historical Note**

Former Rules 5.4.01 through 5.4.06.

**ARTICLE 6. GENERAL APPOINTMENT PROVISIONS****R13-5-30. General appointment provisions**

- A.** Oath of personnel required: Each person appointed to serve in the agency shall, before entering upon his duties, take an oath in writing before the agency head or other person authorized to administer oaths in this state, after reading the provisions of A.R.S. §§ 16-205, 16-206, 13-707, 13-707.01 and 38-231.
- B.** Form: The oath to be taken shall be as follows:
 

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the state of Arizona; that I will bear true faith and allegiance to the same, and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_ according to the best of my my ability, so help me God (or so I do affirm). (A.R.S. § 38-231(G)) I further do solemnly swear (or affirm) that I take this obligation freely without mental reservation or purpose of evasion; that I do not advocate, nor am I a member of any purported political party or organization that advocates the overthrow of the government of the United States, or of this state, or of any government in the United States, by force or violence; and that during such time as I am employed by the state of Arizona, I will not advocate nor become a member of any purported political party or organization that advocates the overthrow of the government of the United States or of this state, or of any government in the United States, by force or violence, so help me God."
- C.** Refusal: Any person who refuses or fails to take the oath required by these rules within the time provided forthwith forfeits his right to his position, and the position shall be considered vacant, refusal being sufficient cause for dismissal.
- D.** Administration: The oath shall be administered in a manner which will best awaken the conscience and impress the mind of the person taking the oath, and it shall be taken upon the penalty of perjury.
- E.** Filing: After subscription, oaths shall be filed in the office of the Council.
- F.** Filling positions: The agency head shall fill positions under his jurisdiction by appointment, including cases of transfers, re-employments, promotions and demotions in accordance with these rules. The Governor shall fill the position of Superintendent of the Arizona Highway Patrol from a list of candidates who have been examined and certified by the Merit System Council as meeting the qualifications prescribed in the job specification for Superintendent, as a result of open and competitive examination.
- G.** Appropriate class: No person shall be appointed under a class not appropriate to the duties to be performed.
- H.** Request for certification: Whenever a vacancy in any position under his jurisdiction is to be filled and not by transfer, demotion, or re-employment, the agency head shall submit a request to the Business Manager that the names of persons eligible for appointment to the position be certified. Whenever a vacancy in the position of Superintendent of the Arizona Highway Patrol is to be filled, the Council shall certify the names of employees eligible for promotion to the position to the Governor.
- I.** List order: The order of list preference in certifying eligibles shall be:
  - 1. District or section re-employment list,
  - 2. District or section promotional list,

3. General re-employment list,
  4. Service-wide promotional list,
  5. Special limited term,
  6. Eligible list.
- J.** Comparable lists: In the event an employment list is not available for the class to which a position belongs, certification of names from appropriate employment lists of the same or higher level may be made.
- K.** Certification of names from entrance examination: There shall be certified to the agency head the names and addresses of the three persons standing highest on the employment list for the class in which the position belongs and who have indicated their willingness to accept appointment under the conditions of employment specified. If fewer than three names of persons willing to accept appointment are on the list from which certification is to be made, then additional eligibles shall be certified from the various lists next lower in order of preference until three names are certified. If there are fewer than three names on such lists, there shall be certified the number thereon. In such case the agency head may demand certification of three names and examinations shall be conducted until three names may be certified. The agency head shall fill the position by the appointment of one of the persons certified.
- L.** Certification of names from promotional examination: If the list from which certification is to be made is a promotional list, then names of all the eligible employees standing highest in order thereon shall be certified to the agency head. When he deems necessary, the agency head may demand certification of additional names and examinations shall be conducted and an appropriate list established. The agency head shall fill the position by appointment of one of the persons certified.
- M.** Reply to notice of certification: It shall be the duty of every eligible to deliver his response within ten days after notice of certification is mailed to him. Failure of the eligible to respond within the time provided or to accept full-time employment under the conditions specified shall cause the removal of the eligible's name from the employment list from which certification was made.
- N.** Certification limit: The name of an eligible shall not be certified to the agency head more than three times. After an eligible's name has been certified from the employment list for the class in which the position belongs and he has been considered three times for actual appointment and has not been appointed, the eligible's name shall be removed from the employment list from which certification was made.

#### **Historical Note**

Former Rules 6.1.01 through 6.1.14; Amended effective May 23, 1980 (Supp. 80-3).

#### **R13-5-31. Limited term or provisional**

- A.** Limited term: Limited term positions are those positions designated temporary in nature or funded from sources outside of the agency's regular legislative appropriation. Whenever the agency head requires the appointment of a person to a limited term position, the request for certification shall state the expected duration of the position. Persons appointed to limited term positions will after successful completion of a probationary period, acquire all of the rights of permanent employees except layoff, re-employment and reinstatement.
- B.** Certification: Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment to such position as "limited-term employees."
- C.** Termination: A limited-term employee may be separated at any time prior to the expiration of the term for which appointed by advising him either orally or in writing of the separation; provided, however, a limited-term employee may

not be separated except for cause if emergency or provisional employees in limited-term positions remain employed in the same class and the same layoff subdivision. If separated for cause, the agency head shall give him on or before date of separation, written notice setting forth the reasons therefor. The employee has no appeal from the action of the agency head in terminating his limited-term employment except on the grounds that provisional or emergency employees remain employed in violation of this rule. The Business Manager shall not again certify for re-employment the name of a person who has been separated for cause unless he determines that the reason for separation should not bar the person from further employment. Cause as used in this rule shall include failure to demonstrate merit, efficiency, fitness and moral responsibility.

#### **D. Provisional appointments**

1. When there is no employment list from which a position may be filled, the agency head may fill such position by provisional appointment. Such provisional appointment may continue only until an eligibility list is certified by the Merit System Council for the position to which the employee is a provisional appointee.
2. An appropriate examination shall be given and an employment list shall be established for each class to which a provisional appointment is made within 12 months after such appointment.
3. Upon termination a provisional employee has no appeal from the action of the agency head.

#### **E. Special limited term**

1. Special limited term shall not exceed three years for the classification of Officer Trainee. The purpose is to allow the agency to employ qualified Officer applicants for the classification of Officer between the ages of 18 and 21 years and to provide immediate employment for qualified applicants 21 years or older.
2. Individuals employed under the provisions of this rule may remain on an eligibility list for the duration of appointment. Such eligibility list shall be certified to the agency head under the provisions of R13-5-30(I) at the time the agency head requests certification of eligibles for the classification of Officer.

#### **Historical Note**

Former Rules 6.2.01 through 6.2.04; Amended effective November 20, 1978 (Supp. 78-6). Amended effective May 23, 1980 (Supp. 80-3).

#### **R13-5-32. Intermittent**

- A.** Probable amount of work: Whenever the agency head requires the appointment of a person to a position requiring the performance of work or an intermittent or irregular time basis, the request for certification shall state the probable amount of working time to be required.
- B.** Certification: Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept employment to such position as "intermittent employees".

#### **Historical Note**

Former Rules 6.3.01 and 6.3.02.

#### **R13-5-33. Emergency**

Emergency: The agency head may, to prevent the stoppage of public business when an emergency arises and persons on employment lists are not immediately available, make emergency appointments for a period not to exceed 31 working days.

#### **Historical Note**

Former Rule 6.4.01.

**R13-5-34. Re-employment**

- A.** After resignation or demotion: The agency head may re-employ within one year any person having probationary or permanent status who was separated from his position through resignation, termination, or who was demoted without fault or delinquency on his part, if within that time there is need for his services in a position in the class from which the employee was separated or demoted or in a lower class requiring similar types of qualifications and knowledges and abilities, or in another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range. Any employee re-employed to a position under the provisions of this rule shall serve the probationary period prescribed for the class before attaining permanent status in such position and the employee shall not receive benefit of any prior seniority.
- B.** After provisional appointment: An employee who has vacated a position within the agency to accept another position under provisional appointment shall, if he so desires, be re-employed in his former position at the termination of such appointment.
- C.** After rejection from higher position: An employee who has vacated a position to accept another position in a higher class, or a class on the same level, and who is rejected during the probationary period shall be re-employed in his former position.
- D.** After appointment by governor: An employee who has vacated a position to accept appointment by the governor to an office or position to serve at his pleasure, or for a fixed term, or by the legislature, shall at the termination of such appointment, or term of office, or any extension thereof by operation of law or by new appointment, be re-employed in his former position.
- E.** Acceptance of position subject to re-employment rights: Every person accepts and holds a position in the agency service subject to re-employment or restoration of another person thereto. The status of the person displaced shall be determined by the Business Manager in accordance with these rules, but such person shall not be deprived of his earned position on the eligible list from which he was certified.

**Historical Note**

Former Rules 6.5.01 through 6.5.05; Amended effective October 24, 1978 (Supp. 78-5).

**R13-5-35. Probationary period****A. Length:**

1. An appointee from an entrance eligibility list for a commissioned classification shall be on probation during the required training program for a classification and after having completed this program the appointee shall be on probation for a period of one year unless the agency head increases the length of the individual's probationary period by adding thereto periods of time during which a probationer is absent from his position or has performed below-standard services.
  2. An appointment from an eligible list for a promotional commissioned employee's position is permanent after expiration of one year probationary period of full-time employment unless the agency head increases the length of individual probationary periods by adding thereto periods of time during which a probationer is absent from his position or has performed below-standard services.
  3. An appointment from an eligible list or promotional eligible list for a noncommissioned employee's position is permanent after expiration of a 12-month probationary period of full-time employment with an overall performance appraisal rating of satisfactory. With an overall performance appraisal of excellent or outstanding, the probationary period may be reduced to six months. The agency head may increase the length of individual probationary periods by adding thereto periods of time during which a probationer is absent from his position or has performed in a less than satisfactory manner.
- B.** Appointment from re-employment lists: Appointments from a sectional or general re-employment list of persons or demotion of employees who have previously satisfied the probationary period in the class to which the appointment or demotion is made do not require an additional probationary period. Any employee demoted or certified to a position from any re-employment list for a class different from that held by him when laid off shall serve a probationary period before attaining permanent status in such position.
- C.** Rejection: Any probationer may be rejected by the agency head during the probationary period for reasons relating to the probationer's qualifications, the good of the service, or failure to demonstrate merit, efficiency, fitness, or moral responsibility.
- D.** Notice of rejection: A rejection during the probationary period is effected by the service upon the probationer of a written notice of rejection which shall include an effective date for the rejection which shall not be later than the last day of the probationary period, and a statement of the reasons for the rejection. Service of the notice shall be made on or prior to the effective date specified. A copy of the notice shall be filed with the Business Manager. If re-appraisals or departmental reviews are not completed prior to the last day of probation, the probationary period will be extended until the reviews are completed.
- E.** Action of Council: The Council at the written request of a rejected probationer, filed within ten calendar days of the effective date of rejection, may investigate with or without a hearing the reasons for rejection. After investigation, the Council may:
1. Affirm the action of the agency head; or
  2. Restore the probationer to the position from which he was rejected, but this shall be done only if the Council determines, after hearing, that there is no substantial evidence to support the reason or reasons for rejection, or that the rejection was made in fraud or bad faith. At any such hearing the rejected probationer shall have the burden of proof. Subject to rebuttal by the probationer, it shall be presumed that rejection was free from fraud and bad faith and that the statement of reasons therefor in the notice of rejection is true.
- F.** Rejection notice withdrawn: The agency head may cancel or withdraw a notice of rejection of a probationer.
- G.** Military service: If a probationer enters or has entered the military service while serving a probationary period, and following his return satisfactorily completes his probationary period, such probationary period shall be considered to have been satisfactorily completed on the date on which it would have been completed had he remained in the position without interruption.
- H.** Time of probationer evaluation: A report of the probationer's performance shall be made within 15 days before the end of each six-month period of the probationer's service. If the probationer is laid off or rejected, a final report shall be filed for the period not covered by previous reports.
- I.** Duty to reject probationer: If the conduct, capacity, moral responsibility, or integrity of the probationer is found to be unsatisfactory, it shall be the duty of the agency head to cause the rejection of the probationer from his position.

**Historical Note**

Former Rules 6.6.01 through 6.6.09; Amended effective

September 12, 1977 (Supp. 77-5). Amended effective October 24, 1978 (Supp. 78-5).

### **R13-5-36. Duration appointments**

#### **A. Scope and application**

1. Whenever the United States is engaged in war or whenever the governor finds that an emergency exists in connection with the national defense, appointments shall be made on a duration basis to all classes and positions, except that the Business Manager may permit regular appointments and provide for regular examinations whenever the regular procedure would be in the best interests of the state.
2. Unless otherwise provided in these rules, the regulations governing the status, tenure, and conditions of employment of regular employees shall govern the status, tenure and conditions of employment of duration employees.

#### **B. Duration examinations:** To establish lists of persons available for duration appointment, the Business Manager may provide for duration open examinations and duration promotional examinations. Duration employment lists resulting therefrom shall not be used in making regular appointments. The regulations governing the conduct of regular examinations shall govern the conduct of duration examinations.

#### **C. Termination:** All duration appointments, unless sooner terminated by layoff or other means of separation, shall terminate 90 days after the governor finds and proclaims that the emergency no longer exists.

#### **D. Restoration of veteran:** Any person appointed to fill a vacancy existing through the induction or order of a probationary or permanent employee into the armed forces of the United States is hereby notified that such appointment is contingent upon restoration of the former employee as provided by these rules and A.R.S. § 38-298.

#### **Historical Note**

Former Rules 6.7.01 through 6.7.04.

## **ARTICLE 7. GENERAL EMPLOYEE CONDUCT PROVISIONS**

### **R13-5-40. General employee conduct provisions**

- A. Conduct of employees:** Every employee shall fulfill to the best of his ability the duties of the office or position conferred upon him and shall prove himself in his behavior inside and outside the service worthy of the esteem which his office or position requires. In his official activities the employee shall pursue the common good, and, not only be impartial, but so act as neither to endanger his impartiality nor to give occasion for distrust to his impartiality.
- B. Incompatible activity:** An officer or employee shall not engage in any employment, activity, or enterprise unless it has been determined by the Council or the agency head not to be inconsistent, incompatible, or in conflict with his duties as an officer or employee or with the duties, functions or responsibilities of the agency head.
- C. Attendance at Council meetings or examinations:** Upon giving two days notice to his superior, any qualified employee shall be permitted to take any Council examination during working hours, if the examination is scheduled during such period, or to attend a meeting of the Council at which is scheduled for consideration a matter in which he is an interested party.
- D. Voluntary demotion:** Any employee may request voluntary demotion to a vacant position. If the class to which the demotion is proposed requires qualifications, knowledges or abilities not measured by the examination for the class from which demotion is proposed, the Business Manager shall provide for examination of the employee for the possession of those addi-

tional qualifications, knowledges and abilities. If there is evidence satisfactory to the agency head of the employee's fitness to perform the duties of the lower class, the agency head may demote the employee.

#### **E. Assignment:** Except in an emergency, an employee shall not be assigned to perform the duties of any class other than that to which his position is allocated.

#### **F. Physical and psychological examinations:** When there is probable cause to believe that an employee is not physically or psychologically able to perform the duties of his employment, the agency head may require a physical or psychological examination of the employee sufficient to indicate whether or not the employee is able to perform the duties of his employment. Information provided by the employee during the examination shall be treated as privileged unless waived by the employee, except that the examiner may provide to the agency head diagnosis, conclusions, recommendations, or any other information that is necessary to promote the welfare of the employee, department, or public. An employee who is required to submit to an examination shall be entitled to an appeal as provided in rule R13-5-10. The cost of such examination shall be a proper charge against the support appropriation of the agency.

#### **Historical Note**

Former Rules 7.1.01 through 7.1.06; Amended effective October 24, 1978 (Supp. 78-5).

### **R13-5-41. Report of employee performance**

#### **A. Purpose:** The intent of supervisory evaluation of employee performance is to inform employees and the agency head how well employees carry out their assigned duties and responsibilities. Employees shall be informed of how well they perform their job requirements, and, if necessary, how they may improve such performance. The performance rating system shall permit, as accurately as is reasonably possible, the evaluation of employee performance of assigned duties.

#### **B. Report of Employee Performance:** Ratings shall be set forth in a Report of Employee Performance, the form of which shall be designated by the Council. The original report shall be maintained in the employee's personnel file. Copies of the report shall be furnished to the employee and the employee's supervisor.

#### **C. Rating definitions:**

1. "Exceeds standard", indicates that the employee exceeds the expected level of performance required to accomplish the objectives of the position being filled.
2. "Standard", indicates that the employee meets the expected level of performance required to accomplish the objectives of the position being filled.
3. "Below standard", indicates that improvement is needed for the employee's work performance to be fully satisfactory.
4. "Unacceptable", indicates that the employee's work performance is usually well below "standard" and improvement is urgently required.

#### **D. Performance Appraisal Manual:** A performance appraisal manual shall be prepared under the authority and approval of the Council and shall contain evaluation procedures, definitions and other information determined necessary by the Council. No modifications to the Performance Appraisal Manual shall be made without Council authorization.

#### **E. Appeals:**

1. Upon review of his Report of Employee Performance, an employee may appeal the overall rating to the Council if the overall rating is below "standard"; if the overall rating would cause a reduction in pay; or if the overall rating would result in the withholding or postponement of salary adjustment.

**F. Report periods:**

1. Each employee shall receive a written Report of Employee Performance at least once in each 12-month period.

**Historical Note**

Former Rules 7.2.01 through 7.2.13; Former Section R13-5-41 repealed, new Section R13-5-41 adopted effective July 14, 1981 (Supp. 81-4).

**R13-5-42. Annual leave**

- A.** Authority: The agency head may grant leave with or without pay to any employee in accordance with these rules.

**B. General provisions:**

1. Working days: An employee's leave time accounts for vacation or sickness shall not be charged with more than the hours per prescribed work cycle as provided by law during the employee's leave of absence for vacation or sick leave purposes.
2. Paid holidays: Employees shall be allowed to be absent with pay for any holiday designated by state law, unless required to work in order to maintain essential state services. Employees required to work on a state holiday shall be compensated as provided by law.
3. Recording leave: The agency shall install and maintain a system to record leave earned, leave taken and leave balances remaining in each leave category for each employee. Copies of such records may be distributed to employees and shall be available for inspection by employees upon request.
4. Leave requests: Leave shall be requested and approved in advance of the time when it is taken. The agency may establish reasonable procedures to govern emergency situations when advance approval cannot be obtained.
5. Transfers: An employee who transfers from one state service agency to a position subject to the jurisdiction of the Law Enforcement Merit System Council shall retain any accumulated annual and sick leave.
6. Computing length of service to determine rate of accrual: Only complete calendar months of service before and after interruptions or breaks in service shall be counted. In computing the total number of years of service by which an employee is allowed to progress from one graduated rate of accrual for annual leave to the next, the following rules shall apply:
  - a. Where the employee has been employed by the same agency without interruption or break in continuity of service, the date from which total years of service is counted shall be the first day of the first complete calendar month worked.
  - b. Periods during which the employee was employed in a nonelective position by any budget unit of the state shall be counted without regard to whether the position in which he was employed is or was a state service position.
  - c. Periods of service as a state employee prior to a break or interruption in continuity shall not be counted except when the break or interruption was less than 12-months' duration.
  - d. Where an employee's continuity of state service has been interrupted or broken by his being inducted or ordered into active military service in the Arizona National Guard or the armed forces of the United States, the period of military leave shall be counted as state service in computing his total number of years of service, provided he meets the requirements of state law and applies for restoration to position as therein provided.
  - e. Where an employee is absent under competent military orders pursuant to state law, such periods of time shall be counted as state service in computing his total number of years of service.
7. Effective date for change in accrual rate: An employee shall be allowed to progress from one graduated rate of accrual for annual leave to the next on the first day of the month immediately following completion of the required total length of service.
8. Maximum accumulation: An employee shall be permitted to accumulate annual leave provided that on January 1 of any year the total number of hours accumulated does not exceed 360. An employee shall be permitted to accumulate sick leave without limit. An employee may accumulate compensatory leave up to a total of 120 hours. This limit may be temporarily raised by the agency head during man-power shortages for periods not to exceed six months.
9. Disposition of excess annual leave: Annual leave in excess of the maximum allowed under these rules shall be credited to the employee's sick leave accumulation. In situations which preclude the granting of sufficient annual leave to avoid disposition under this rule, the agency head may authorize a date other than January 1 for disposition of excess leave.
10. Transfer of annual leave: Within the agency, annual leave may be transferred by one employee to another provided all of the following conditions are satisfied:
  - a. The employee to whom the leave is transferred has a non-job related, seriously incapacitating and extended illness or injury, or a member of his immediate family has a seriously incapacitating and extended illness or injury.
  - b. The employee to whom the leave is to be transferred has exhausted all available leave balances.
  - c. Any annual leave transfer from one employee to another will be added to the sick leave balance of the gaining employee and shall be excluded from any sick leave pay-off authorized by state law for employees leaving agency service.
  - d. The dollar value of annual leave given up by an employee shall be determined and the amount of leave credited to the gaining employee shall be increased or decreased proportionally by the difference in salaries. The proportionate adjusted dollar value of the leave shall be determined by dividing the dollar amount of the annual leave donated, based upon the contributor's salary, by the recipient's hourly rate. The resulting number is the number of hours donated to the leave recipient.
  - e. If the leave recipient separates from the agency service or recovers prior to using all leave donated or the need for the leave is otherwise abated, all unused leave donated to the recipient is returned to the leave contributors on a pro rata basis or, at the donating employee's option, to any leave-balance bank that may be created for the purposes of this subsection.
  - f. The Business Manager shall periodically review the procedures developed by the Department pursuant to this subsection to ensure that there is no abuse or misuse of the leave transfer process.
11. Disposition of leave upon termination: Upon termination of employment, each employee shall be compensated at the then current rate of pay for all unused annual and compensatory leave hours up to the maximum allowed by these rules. All unused sick leave credits shall be for-



feited unless state law authorizes payment for all or any portion of such credits to retiring employees.

12. Restoration of sick leave credits upon reemployment: If an employee reenters agency service within 12 months of termination, he shall receive credit for 50% of any unused sick leave which was accumulated at the time of termination. The number of hours previously accumulated shall be reduced in proportion to any payment made pursuant to state law.

**C. Leave accumulation rates:** Each full-time employee shall accumulate annual, sick and compensatory leave in accordance with the following schedules:

1. Annual leave:  
Length of Service:   Monthly Accrual Rate:  
Less than 7 years       10 Hours  
At least 7 but less than 15 years 12 Hours  
15 years and over       14 Hours  
Part-time employees shall accumulate annual leave in proportion to the fraction of full-time hours worked, calculated to the nearest full hour.
2. Sick leave: Full-time employees shall accumulate sick leave credits at the rate of ten hours per month. Part-time employees shall accumulate sick leave in proportion to the fraction of full-time hours worked, calculated to the nearest full hour.
3. Compensatory leave: Employees may accumulate compensatory leave in lieu of overtime payment, when authorized by law or agency rules at the rate provided by law.

**D. Leave administration:**

1. Annual leave: Each employee eligible to accrue annual leave credits pursuant to these rules may request and be granted use of accrued annual leave only after six months of service, except that accrued annual leave may be granted prior to six months of service by the agency head in addition to any accrued sick leave for illness or injury rendering the employee unable to perform his official duties or for other essential absences.
2. Sick leave: An employee entitled to sick leave shall be eligible to use accrued sick leave credits after completion of one month of employment. The agency shall approve sick leave only after having ascertained that the absence was for an authorized reason. The agency may require the employee to submit substantiating evidence including, but not limited to, a physician's certificate. If the agency does not consider the evidence adequate, it shall disapprove the request for sick leave. Sick leave shall be granted for any approved period of absence of an employee resulting from:
  - a. Illness or injury which renders the employee unable to perform official duties;
  - b. Medical examination, consultation, or treatment by a licensed practitioner;
  - c. Attendance at the death or funeral of spouse, parent, child, brother or sister; or attendance of a sick family member. Except as provided in subsection (B)(10) of this rule, not more than five days of sick leave within any one calendar year may be granted for this purpose.
3. Compensatory leave: Employees eligible to accumulate compensatory leave may request and be granted the use of accrued compensatory leave in accordance with law or agency rules.
4. Civic duty leave: Civic duty leave shall include approved periods of absence with pay from regularly scheduled work while serving as a juror or casting one's vote pursuant to state law.

5. Jury duty: An employee summoned for duty as a juror shall appear as required for such duty. The agency shall require the employee on civic duty leave for jury duty either to remit his fees for such jury duty to the employing agency or shall make an equivalent deduction from the employee's salary. At all times during regular working hours when his presence as a juror is not officially required, he shall return to work until again called or finally released; except, however, that he shall not be required to return to work if, because of the remoteness of the location of such work, he cannot respond to a call to return to jury duty with timeliness or he cannot arrive at work at least one hour before the end of his regularly assigned work shift.
6. Military leave: Agency employees shall be provided all rights pertaining to leave for military or national guard duty as provided by state law.
7. Educational leave: The agency head is authorized to approve reasonable periods of absence with or without pay to enable employees to attend work-related education and training courses. Agencies shall not, however, approve educational leave until the agency head has determined that the approval of such leave is in the best interest of the agency.
8. Administrative leave: Administrative leave shall include temporary periods of absence with pay authorized by the agency head in emergency situations. It may be used for the purpose of relieving an employee of his duties temporarily during the active investigation of an alleged wrongdoing by the employee. Administrative leave may also be based upon the executive declaration by the governor that a state of emergency, disaster or grief exists.
9. Recognition leave: Recognition leave shall include a period of paid leave granted by the agency as an incentive to continued superior performance as documented through a formal employee incentive program.
10. Leave without pay: Leave without pay shall include any period of approved absence without pay for which an employee has made application.
  - a. Administration: Leave without pay may be granted for temporary periods of time when there is a reasonable expectation that the employee will return to work at the expiration of the leave.
  - b. Appointment to exempt positions: An employee may be granted leave without pay to accept appointment to an exempt, nonelective position in state government.
  - c. Reemployment: After full compliance with the conditions of and upon return from leave of absence, the employee shall be reemployed in his former classification.
11. Failure to return: The failure of an employee to return to his position, following a leave of absence with or without pay, or other inexcusable violation of the conditions of the leave of absence, shall constitute a voluntary resignation from agency service by the employee.
12. Termination of leave: A leave of absence for any reason is terminated by:
  - a. Expiration of the term thereof,
  - b. Inexcusable violation of the conditions thereof,
  - c. Revocation thereof by order of the agency head and written notice to the employee of such revocation,
  - d. Cancellation thereof by the employee with the approval of the agency head.

**Historical Note**

Former Rules 7.3.01 through 7.3.18. Amended subsection

tions (I), (K) and (N) effective August 12, 1980 (Supp. 80-4). Amended effective April 23, 1987 (Supp. 87-2). Adopted as an emergency effective October 27, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended and readopted as an emergency effective May 11, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Amended and adopted as a permanent rule effective January 9, 1990 (Supp. 90-1).

#### **R13-5-43. Transfers**

##### **A. Administrative decision:**

1. The agency head may at any time transfer any employee under his jurisdiction:
  - a. To another position in the same class; or
  - b. To another position in a different class designated as appropriate by the Business Manager; or
  - c. From one location to another whether in the same position or in a different position as specified above in (a) or (b).
2. When a transfer reasonably requires an employee to change his place of residence, the agency head shall give the employee a written notice of transfer in advance of the effective date of the transfer.

**B. Protest:** If a transfer is protested to the Council by an employee as made for the purpose of harassing or disciplining him, the agency head may require the employee to transfer pending approval or disapproval of the transfer by the Council. If the Council disapproves the transfer, the employee shall be returned to his former position and shall be paid the regular travel allowance for the period of time he was away from his original headquarters in addition to his moving costs both from and back to the original headquarters.

**C. Filing protest:** A copy of the protest shall be filed with the agency head by the employee. Such a protest shall be made within ten days of the time the employee is notified of the transfer.

**D. Status of transferred employee:** Transfer of an employee from one position to another in the same class shall not require a new probationary period. Transfer of a probationer under like circumstances shall require service of the remainder of the probationary period. Transfer of an employee from one class to another shall require the service of a new probationary period. Any employee rejected during such probationary period shall be re-employed in the position from which he transferred.

**E. Limitation:** Any transfer of an employee from a position in a lower class to a position in a higher class is a promotion and any transfer of an employee from a position in a higher class to a position in a lower class is a demotion and may be accomplished only in the manner provided for making promotional or demotional appointments.

**F. Operation of new machinery:** Whenever any position is changed by the adoption of new, different or additional machines or processes while the purpose or product is the same or similar in nature, any employee affected shall be given reasonable opportunity without change in class, status or salary to learn to do the work with the new machine or process and to qualify for status in the different class of position required for such work; provided that an employee may not be promoted to a higher class under the provisions of this section. An employee who qualifies for appointment in the different class shall be deemed to possess the specific education, experience or other requirements for such class and shall be appointed thereto with the same status and seniority which he last had in his previous class.

#### **Historical Note**

Former Rules 7.4.01 through 7.4.06.

### **ARTICLE 8. GENERAL PERSONNEL PROVISIONS**

#### **R13-5-45. General personnel provisions**

- A. Tenure:** The tenure of every permanent employee holding a position is during good behavior. Any permanent employee may be temporarily separated from agency service through layoff, leave of absence, or suspension; permanently separated through resignation or removal for cause; or permanently or temporarily separated through retirement.
- B. Resignation:** Resignations shall be in writing and made to the agency head. The agency head may accept or reject any resignation from an employee under his jurisdiction. A resignation shall waive all and any rights or privileges provided by these rules, unless otherwise provided for. No resignation shall be set aside on the ground that it was given or obtained pursuant to or by reason of mistake, fraud, duress, undue influence or that for any other reason it was not the free, voluntary and binding act of the person resigning unless a petition to set it aside is filed with the Council within ten days after the date upon which the resignation is accepted by the agency head. A resignation by the Director of the Department of Public Safety shall be made to the governor.

#### **Historical Note**

Former Rules 8.1.01 and 8.1.02.

#### **R13-5-46. Layoff and demotion**

- A. Staff reduction:** Whenever it is necessary because of lack of work or funds or whenever it is advisable in the interests of economy to reduce the staff, the agency head may lay off employees pursuant to this rule.
- B. Assignment of duties:** The duties performed by any employees laid off may be assigned to any other employee or employees holding positions in appropriate classes.
- C. Layoff by district:** Layoffs may be restricted to the employees of a particular district or section, and, if so restricted, re-employment lists shall be established for such districts or sections.
- D. Demotion in lieu of layoff:** In lieu of layoff, an employee may request demotion to a position of lesser responsibility in the same line of work or to any class with the same or lower maximum salary in which he has previously served in probationary status. Whenever such a demotion requires a layoff in the lower class, the seniority score for the employee shall be recomputed in the lower class.
- E. Method:** Layoff shall be made in accordance with the relative efficiency and seniority of the employees in the class of layoff. Except as otherwise provided by this rule, one point shall be allowed for each complete month of full-time service in the class of layoff or demotion and in classes that, at the time notice of layoff is given, have the same or a higher maximum salary. One-half point shall be allowed for each complete month of full-time service in all other classes. Service that is less than full time shall receive seniority credit on a pro rata basis.
- F. Order of layoff when combined scores are equal:** As between two or more employees having the same combined score for efficiency and seniority, the order of layoff shall be determined by giving preference for retention in the following sequence:
  1. Veteran,
  2. Employee with the highest overall report of performance rating,
  3. Employee with the greatest total calendar time in the class in which the layoff is being made and in classes with the same or higher maximum salary,

4. Employee with the greatest total time in agency service,
  5. Employee with the greatest total calendar time in state service.
- G.** Re-employment lists: The names of employees to be laid off or demoted shall be placed upon the re-employment lists for the class from which the employees were laid off or demoted.
- H.** Notice of layoff: An employee shall be notified that he is to be laid off ten days prior to the effective date of the layoff. The notice of layoff shall be in writing and shall contain the reasons for the layoff.
- I.** Appeal and hearing: An employee may appeal to the Council within ten days after receiving notice of layoff on the ground that the required procedure has not been complied with or that the layoff has not been made in good faith or was otherwise improper.
- Historical Note**  
Former Rules 8.2.01 through 8.2.09.
- R13-5-47. Disciplinary proceedings**
- A.** Punitive action defined: As used in this rule, "punitive action" means dismissal from service, demotion to a lower class, rank or grade, suspension from duty without pay, deduction from vacation credit in lieu of suspension from duty without pay, withholding of merit salary adjustment, reduction to a lower salary step within the range, or other disciplinary action.
- B.** Procedure: In conformity with this rule, punitive action may be taken against any employee or person whose name appears on any employment list for any cause for discipline specified in this rule.
- C.** Causes for punitive action: Each of the following constitutes cause for discipline or discharge of an employee:
1. Fraud or misrepresentation of any kind in securing appointment;
  2. Improper political activity as defined in rule R13-5-01;
  3. Misfeasance, malfeasance or nonfeasance, which shall include, but shall not be limited to:
    - a. Incompetency,
    - b. Inefficiency,
    - c. Inexcusable neglect of duty,
    - d. Insubordination or any willful disobedience,
    - e. Dishonesty or any breach of integrity,
    - f. Inexcusable absence without leave,
    - g. Disrespectful behavior toward a supervisor and/or supervisory directive.
  4. Physical or mental disability;
  5. Drinking or drunkenness on duty;
  6. Excessive intemperance at any time which would reflect discredit upon the agency;
  7. Addiction to the use of narcotics or habit-forming drugs.
  8. Conviction of a crime involving moral turpitude or intoxicating beverages;
  9. Any act of immorality which would bring the employee into disrepute or reflect discredit upon the agency;
  10. Discourteous treatment of the public or other employees;
  11. Any other failure of good behavior or acts either during or outside of duty hours which are incompatible with or inimical to the agency interest;
  12. Misuse of state property;
  13. Refusal to take and subscribe to any oath or affirmation which is required by law or Council rule in connection with his employment, or violation of such oath or affirmation after subscription;
  14. Renouncement of citizenship or allegiance to the United States; or the taking of an oath of allegiance or otherwise pledged allegiance to any foreign country;
  15. Violation of Council rules;
  16. Failure to appear or the refusal to testify or to waive immunity from any prosecution on account of any matter about which he may be asked to testify at any hearing or inquiry before the agency head, the Council or any person authorized to conduct any hearing or inquiry.
- D.** Who may take: The agency head, or any person authorized by him, may take effective punitive action against an employee for one or more of the causes for discipline specified in this rule by notifying the employee of the action, pending service upon him of a written notice.
- E.** Notice to be given: Punitive action is valid only if a written notice is served on the employee and filed with the Council not later than ten days after the date of such action. The notice shall be served upon the employee either personally or by mail and shall include:
1. A statement of the nature of the punitive action;
  2. The effective date of the action;
  3. A general statement of the causes therefor;
  4. A statement advising the employee of his right to answer the notice and the time within which that must be done if the answer is to constitute an appeal.
- F.** Answer: No later than ten days after service of the written notice of punitive action, the employee may file with the Council a written answer to the notice, which answer shall be deemed to be a denial to all the allegations of the notice of punitive action not expressly admitted and a request for hearing or investigation as provided in this rule. With the consent of the Council an amended answer may subsequently be filed. If the employee fails to answer within the time specified or after answer withdraws his appeal, the punitive action taken by the agency head shall be final. A copy of the employee's answer and of any amended answer shall promptly be given by the Council to the agency head. When the employee answers the notice of punitive action, any irregularity in the notice given to the employee is deemed to have been waived.
- G.** Amended notice of punitive action: At any time before an employee's appeal is submitted to the Council for decision, the agency head may serve on the employee and file with the Council an amended or supplemental notice of punitive action. If the amended or supplemental notice presents new causes, the employee shall be afforded a reasonable opportunity to prepare his defense thereto, but he shall not be entitled to file a further answer unless the Council so orders. Any new causes shall be deemed controverted, and any objections to the amended or supplemental causes may be made orally at the hearing or investigation and shall be noted in the record.
- H.** Hearings and investigations on suspension: Whenever an answer is filed within the time provided by an employee who has been suspended or has suffered a loss of pay of \$50 or less, the Council shall make an investigation without a hearing as it deems necessary; however, in the event the employee demands a hearing or such employee has suffered a loss or losses of pay totaling more than \$50, or \$100 in any calendar year, he shall be afforded a hearing within a reasonable time if he files an answer to the action.
- I.** Hearing: Whenever an answer is filed within the time provided to a punitive action other than a suspension without pay, the Council shall within a reasonable time hold a hearing.
- J.** Effect of dismissal: Dismissal of an employee from the service shall
1. Constitute a dismissal as of the same date from any and all positions which the employee may hold in the service.
  2. Result in automatic removal of the employee's name from any and all employment lists on which it may appear.
  3. Terminate the salary of the employee as of the date of dismissal except that he shall be paid any unpaid salary, and

## Law Enforcement Merit System Council

paid for any and all unused or accumulated vacation and any and all accumulated compensating time off or over-time to his credit as of the date of dismissal.

- K.** Charges: Any person with the consent of the Council or the agency head may file charges against an employee requesting that punitive action be taken for one or more causes for discipline specified in this rule. The employee against whom such charges are filed shall have a right to answer as provided in this rule. In all such cases a hearing shall be conducted. If the Council finds that the charges are true, it shall direct the agency head to take such punitive action as in his judgment is just and proper.
- L.** Salary when punitive action is revoked: Whenever a punitive action is revoked and the appellant is ordered returned to his former position, the agency head shall direct the payment of salary to the appellant for such period of time as the punitive action was improperly in effect. An appellant alleging improper punitive action under these rules by seeking reinstatement after punitive action has been taken shall conform to the standards and regulations of conduct and action as prescribed by these rules and agency policies for applicants and employees in similar classifications until final disposition of his case is made. Violations of such standards, regulations and policies of conduct and action may be separate cause for punitive action and shall result in forfeiture of all salary claims.
- M.** Salary claim: Salary shall not be paid for any period of punitive action wherein the appellant was not ready, able, willing and available to perform the duties of his position; except, the appellant shall use due diligence to seek employment during such period the punitive action is in effect and any and all income shall be deducted from any amount due the appellant if the punitive action is revoked. The appellant shall file an affidavit of employment and income with the Business Manager if a salary claim is to be made by the appellant. The affidavit shall disclose the name of the appellant, the source of his income, if any, and total monthly income including earnings, unemployment benefits, workmen's compensation benefits, retirement or disability benefits, or any other income, if any; and in the event of non-employment, the affidavit shall also contain a statement of the reasons therefor. The affidavit shall be filed not later than the tenth day of each successive month and shall contain the details of the prior month of employment or non-employment and total income. Failure of the appellant to file such a complete and correct affidavit for each month the punitive action is in effect and in the manner and time prescribed shall result in forfeiture and denial of all salary claims.

**Historical Note**

Former Rules 8.3.01 through 8.3.13.

**R13-5-48. Retirement**

**MEMBERSHIP IN ARIZONA PUBLIC SAFETY PERSONNEL  
RETIREMENT SYSTEM**

- 9.1.00 Director
- 9.1.01 Superintendent of the Arizona Highway Patrol
- 9.1.02 Division Chief
- 9.1.03 Assistant Superintendent of the Arizona Highway Patrol
- 9.1.04 Inspector
- 9.1.05 Major
- 9.1.15 Captain
- 9.1.16 Lieutenant
- 9.1.17 Sergeant
- 9.1.18 Corporal
- 9.1.19 Officer
- 9.1.21 Chief Pilot
- 9.1.22 Pilot
- 9.1.24 Attache to the Governor's Office

- 9.1.27 Helicopter Pilot
- 9.2.01 \*Chief Communications Engineer
- 9.2.02 \*Deputy Chief Communications Engineer
- 9.2.03 \*Communications Engineer
- 9.2.04 \*Chief Communications Technician
- 9.2.07 \*Communications Technician
- 9.2.08 \*Radio Rigger
- 9.2.11 \*Radio Mechanic
- 9.2.12 \*Senior Communications Engineer
- 9.2.13 \*Junior Communications Engineer
- 9.2.15 \*Data Communications Specialist
- 9.2.16 \*Radio Rigger Supervisor
- 9.2.17 \*Communications System Supervisor
- 9.2.18 \*Lead Communications Technician
- 9.7.08 Legal Advisor

\* Employment prior to 1 December 1972

**Historical Note**

Former Rule 8.4.01.

**ARTICLE 9. REPEALED****R13-5-50. Repealed****Historical Note**

Former Rule 9; Amended effective January 15, 1975. Amended effective July 23, 1975 (Supp. 75-1). Amended effective February 24, 1976 (Supp. 76-1). Amended effective February 18, 1977 (Supp. 77-1). Amended 9.7.14 effective June 24, 1977 (Supp. 77-3). Repealed effective June 7, 1978 (Supp. 78-3).

**TITLE 13. PUBLIC SAFETY****CHAPTER 6. DEPARTMENT OF PUBLIC SAFETY  
SECURITY GUARDS**

(Authority: A.R.S. § 32-2402(C) et seq.)

**ARTICLE 1. GENERAL PROVISIONS**

## Section

- R13-6-01. Submission of application
- R13-6-02. License information
- R13-6-03. Branch office certificates
- R13-6-04. Identification cards
- R13-6-05. License notification
- R13-6-06. Registered security guard - renewal of identification card
- R13-6-07. Denial of applications: hearing
- R13-6-08. License - termination date and renewal
- R13-6-09. Revocation or suspension of license or registration certificate
- R13-6-10. Employee records, business records
- R13-6-11. Personal representative or fiduciary acting for licensee
- R13-6-12. Firearms violations
- R13-6-13. Complaints
- R13-6-14. Use of name
- R13-6-15. Uniforms, badges, insignia
- R13-6-16. Vehicle markings, emblems, and insignia
- R13-6-17. Liability insurance
- R13-6-18. Absence of qualifying party
- R13-6-19. Knowledge of laws and regulations required

**ARTICLE 1. GENERAL PROVISIONS****R13-6-01. Submission of application**

- A.** All applications for a license, registration certificate, or identification card must be presented in person by the applicant at the Arizona Department of Public Safety office in Phoenix, Tucson, Flagstaff, or Yuma by appointment. Each application must be complete, correct, and legible before acceptance. Each application will be examined for errors; if the application is found to be inaccurate, incomplete, or illegible, the application will be rejected.
- B.** Each application shall be accompanied by the following documents where applicable:
  - 1. Birth certificate
  - 2. Discharge papers (DD 214)
  - 3. Incorporation papers
  - 4. Insurance certificate
  - 5. Application fee
  - 6. Workman's Compensation certificate
  - 7. Training program
- C.** Photographs and a set of classifiable fingerprints will be taken of the applicant at the Department of Public Safety at the time the application is received at the Department of Public Safety. It is mandatory that the fingerprint cards be of such quality as to be classifiable. In the event that the fingerprint cards are not classifiable, the processing of the application will cease until such time as a classifiable set of fingerprints is obtained.
- D.** A separate application must be filed by each partner of a partnership and all persons who are holders of more than ten percent of the controlling interest of the agency, each director, resident officer, manager or security guard.
- E.** If the applicant is a corporation, the license shall be in the name of the corporation and the qualifying party.
- F.** Applications will not be accepted from persons under the age of 18 years.

**Historical Note**

Former Rule 1.

**R13-6-02. License information**

- A.** Each license shall contain the name and address of the licensee, name and address of the licensed business, and the number of the license. The license shall be effective for a 12-month period from the date of issuance, and these effective dates shall be noted on the license.
- B.** When a license has been assigned to a licensee, this license shall be neither assignable nor transferrable. The license number, when assigned, shall not be reassigned to any other license.
- C.** If a licensee wishes to surrender his license before the expiration date, the license fee or any part thereof shall not be refunded. The license shall be posted in a conspicuous place in the principle office.

**Historical Note**

Former Rule 2.

**R13-6-03. Branch office certificates**

- A.** Issuance of a branch office certificate shall be mandatory. The branch office certificate shall be posted in a conspicuous place in the branch office. The license number under which a branch office certificate is issued shall be noted on the certificate, along with the name and address of the licensee, name of the business and address of the branch office, and the effective dates of the license.
- B.** All employees of a branch office shall be employees of the licensed agency.
- C.** A branch office is not a franchise operation of a licensee. A franchise operation of a licensee must be licensed as a separate agency.

**Historical Note**

Former Rule 3.

**R13-6-04. Identification cards**

- A.** Under each license issued a standard identification card, as prescribed by the Director, shall be issued to the licensee, managers, officers, partners, directors, associates, and security guards, after these individuals have filed an application with the Department of Public Safety and have met the qualifications where applicable. The identification card shall contain the following information:
  - 1. Name.
  - 2. Physical description.
  - 3. Photograph.
  - 4. Signature.
  - 5. Fingerprint.
  - 6. Name and address of licensee.
  - 7. Number of employer license.
  - 8. Number of card.
  - 9. Effective date of license.
  - 10. Arizona state seal.
- B.** Identification cards are neither assignable nor transferrable and are valid only during the effective dates of the license under which the card has been issued, and valid only as long as the card holder is employed by, or associated with the licensee.
- C.** Upon the termination of a registered security guard, the agency licensee or his designee shall obtain the identification

card of said employee and return the same to the Department of Public Safety within five days.

- D. Upon termination of employment, all employee identification cards must be returned to the licensed employing agency.
- E. All security guard employees shall obtain a standard identification card. All security guards employed by more than one licensee shall obtain an identification card for each licensed agency. The security guard, so employed, shall use only the identification card for his current employer during the employment by that licensee.
- F. If an identification card is lost or stolen, the Department of Public Safety shall be notified within 24 hours and arrangements shall be made for issuance of a duplicate identification card. A provisional identification card may be issued to an employee of a licensee pending the certification of the employee and the processing of the investigation into the employee's background.
- G. The provisional identification card issued by the Department of Public Safety will have the expiration date written thereon and may be cancelled prior to that expiration date for good cause by notifying the licensee that the employee was found not to be qualified to hold an identification card issued by the state.
- H. When the licensee is notified that an employee is not qualified to perform the duties of a security guard in this state, the licensee shall obtain the identification card or provisional identification card of the employee and forward same to the Department of Public Safety within five days.
- I. Every licensee and every person holding a security guard registration certificate shall have the identification card (issued to such person by the Department of Public Safety), in his immediate possession at all times when on duty or in a security guard agency uniform or vehicle, and display the same, upon demand of any peace officer.
- J. Every application for a renewal security guard registration should contain a statement by the licensed agency, setting forth the training, if any, the renewal applicant has received as prescribed by A.R.S. § 32-2632.

#### **Historical Note**

Former Rule 4.

#### **R13-6-05. License notification**

- A. The applicant for an original license, branch office certificate, security guard registration certificate, or identification card, or renewal of same, will be notified by mail when the document applied for is ready for issuance.
- B. The applicant will be advised whether or not a personal appearance at the Department of Public Safety will be required.
- C. Upon the payment of applicable fees and (where required) evidence of continuing qualification, the application will be approved and the proper document issued.

#### **Historical Note**

Former Rule 5.

#### **R13-6-06. Registered security guard - renewal of identification card**

- A. The identification card issued to registered security guards shall be valid during continuing employment with the named licensed agency.
- B. Upon termination, the employee shall return the identification card to the agency named on the identification card.
- C. When a registered security guard has not worked as a security guard for a period of six months or more and desires to resume employment as a security guard, it will be necessary that the registered security guard be again fingerprinted and his qualifications reappraised. A temporary identification card may be issued during the time necessary for reappraisal.

fications reappraised. A temporary identification card may be issued during the time necessary for reappraisal.

#### **Historical Note**

Former Rule 6.

#### **R13-6-07. Denial of applications: hearing**

- A. If the Director or his designate determines that an applicant for a license does not possess the qualifications as prescribed by A.R.S. §§ 32-2612, 32-2615, or grounds have been established as set forth under A.R.S. § 32-2636, the applicant will be notified by registered mail of a hearing date, at which time the applicant may offer evidence to show cause why his application should not be denied.
- B. If the Director or his designate determines that an applicant for security guard registration certificate does not possess the qualifications as prescribed by A.R.S. § 32-2622, or grounds have been established as set forth under A.R.S. § 32-2625, the applicant and his employer will be notified by registered mail, at which time the applicant may offer evidence to show cause why his application should not be denied.
- C. The applicant will be notified of the date and time of the hearing which will not be less than 20 days after the applicant's receipt of hearing notification. Hearings will be held in compliance with A.R.S. § 32-2636.
- D. A hearing officer will be designated by the Director. If the applicant does not appear at the hearing, the applicant will be notified by registered mail of the hearing findings. In all cases assigned to the hearing officer for hearing, the hearing officer shall prepare proposed findings from fact and conclusion of law in such form that they may be adopted as the Director's findings and conclusions in the case. Upon the filing of the proposed findings and conclusions for the Director, the Director may review the case and make his decision based upon the record.

#### **Historical Note**

Former Rule 7.

#### **R13-6-08. License - termination date and renewal**

- A. The agency license shall expire 12 months from the date of issuance. The effective dates of the license shall also be the effective dates of the branch office certificate. Identification cards issued under each license shall remain in effect during the current status of the license. At the time the licensee submits a license renewal form, included shall be a statement to be signed by the licensee that no changes have been made in the location of principle office, branch office, associates, directors, partners, managers holding identification cards, and that none of the aforementioned have been changed without the Director being notified in writing prior to the renewal date. This statement shall also include a statement that the licensee has not been arrested or convicted of any felony or any crime of moral turpitude, or otherwise done anything which would disqualify the licensee from obtaining such license, since having been licensed as a security guard agency.
- B. No licensee shall transfer, assign, or make any change in the financial set up of his business which in any way results in any other person acquiring an interest of 10% or more in such business, or corporation holding such business, without the person acquiring such interest first complying with the provisions of A.R.S. §§ 32-2612 and 32-2613.
- C. All forms, affidavits, or other documents required for renewal of an agency license shall be submitted not less than 30 days prior to the expiration date of the license. If the license or branch office certificate has not been renewed before the expiration date, they shall expire. The expired license and all branch office certificates and identification cards issued under

that license shall be returned to the Department of Public Safety and are subject to seizure by any officer of the Department of Public Safety or by any peace officer.

**Historical Note**

Former Rule 8.

**R13-6-09. Revocation or suspension of license or registration certificate**

- A. If the Director, or his designate, determines grounds for revocation or suspension of a license or registration certificate, as set forth under A.R.S. § 32-2636, the licensee will be notified by registered mail at his licensed place of business of the facts involved.
- B. The licensee or registered security guard and his employer will be notified of the date and time of the hearing on the revocation or suspension of the license or registration certificate which will be not less than 20 days after the applicant's receipt of hearing notification. Hearings will be held in compliance with A.R.S. § 32-2636 before a hearing officer designated by the Director. If the licensee or registered security guard does not appear at the hearing the licensee or registered security guard will be notified by registered mail of the hearing findings.
- C. If a license or registration certificate is revoked by the Director, the former licensee or security guard cannot apply for reinstatement for a period of 12 months from the date of revocation. In all cases of revocation, it will be necessary to apply for reinstatement by filing an application form as prescribed by the Director and all applicants for reinstatement are then subject to the original application fee and cost of license upon issuance.
- D. Upon revocation of a license or registration certificate, the license or registration certificate and all branch office certificates and identification cards issued under that license shall be returned to the Department of Public Safety immediately for cancellation and are thereby subject to seizure by any peace officer in the state of Arizona.
- E. Upon the suspension of a registration certificate, the holder of the suspended registration certificate shall not perform the duties of security guard.
- F. Failure to comply with these provisions will provide cause for revocation of the license or certificate.

**Historical Note**

Former Rule 9.

**R13-6-10. Employee records, business records**

Each licensee shall maintain at his principle place of business a file or record of the name, address, title, commencing date, and date of termination on each partner, director, business associate, officer, manager, or employee of the principle office and branch offices. These records shall be maintained for a period of two years.

**Historical Note**

Former Rule 10.

**R13-6-11. Personal representative or fiduciary acting for licensee**

A person acting as administrator, executor or guardian of the estate of any licensee is authorized, if found to be qualified and upon receiving permission from the Director, to operate the licensed security guard agency under the authority of the license issued to the licensee for whom the person is acting for a period not exceeding six months from the date of the appointment of such person as administrator, executor or guardian.

**Historical Note**

Former Rule 11.

**R13-6-12. Firearms violations**

- A. No licensee or security guard employee of a licensee shall conduct himself in such a manner as to violate A.R.S. § 13-911, relating to concealed weapons.
- B. No licensee or security guard employee of a licensee shall conduct himself in such a manner as to violate A.R.S. § 13-913, carrying weapons into election and polling place.
- C. No licensee or security guard employee of a licensee shall conduct himself in such a manner as to violate A.R.S. § 13-916, exhibiting a deadly weapon other than in self-defense.
- D. No licensee or employee of a licensee shall conduct himself in such a manner as to violate A.R.S. § 13-917, handling, carrying, or discharging firearms.

**Historical Note**

Former Rule 12.

**R13-6-13. Complaints**

Complaints shall be in writing and shall be filed with the Department of Public Safety. A copy may be forwarded to the licensee against whom the complaint has been lodged at the direction of the Director. If the complaint involved alleged violations of Arizona Revised Statutes or these regulations, the Department of Public Safety may institute an investigation to ascertain if the violation has, in fact occurred. When an investigation indicates that there has in fact been a violation of the Arizona Revised Statutes or rules and regulations contained herein, the Director or his designate determine grounds for suspension or revocation of the license, procedures, as outlined in these laws and regulations, will be followed.

**Historical Note**

Former Rule 14.

**R13-6-14. Use of name**

- A. The name of the licensed agency shall not include, "United States", "U.S.", "Federal", "State of Arizona", or any name to associate the business with any other governmental agency or law enforcement agency.
- B. The use of the words "Corporation", "Corp.", "Incorporated", or "Inc." will not be approved for an individual or partnership license unless corporate papers have been filed with the Corporation Commission.
- C. Similar business names of licensed firms will not be approved.
- D. The licensee, business associates, and employees will do business and present themselves under the name used in their application and identification card. No fictitious names will be approved for use on identification cards.
- E. The licensed business shall do all business under the name and address which is on file with the Director and which is noted on the license. No letterhead other than the licensed name shall be used on any stationery, any advertising, formal contracts entered into with clients, payroll, and reports to clients.

**Historical Note**

Former Rule 15.

**R13-6-15. Uniforms, badges, insignia**

- A. No uniforms, shoulder patches, or badges shall be worn by any licensee or any of his employees without the prior written approval of the Director of the Department of Public Safety.
- B. No licensee or officer, director, partner, manager, or an employee of a licensee shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he is connected in any way with the Federal Government, a state government, or any political subdivision of a state government.
- C. Shoulder identification patches shall be worn on all uniform jackets, coats, and shirts and bear the name of the security guard agency when worn as an outer garment.

- D. The shoulder patches shall not be less than two inches by three inches in size.
- E. No badge worn by a security guard agency shall bear markings similar to the markings used by any law enforcement agency of the Federal Government, the state, or any political subdivision thereof.
- F. No seals, insignia, similar to any law enforcement agency or the words, "Police", "Police Officer", "Patrol Officer", "Patrolman", "Deputy", or "Marshal" shall appear on the badge.
- G. All badges, uniforms, and shoulder patches shall be submitted to the Director of the Department of Public Safety for written approval.
- H. All badges so approved shall be displayed only in conjunction with the security guard agency uniform.
- I. Those agencies who are licensed prior to February 28, 1975, will have until February 28, 1976, to comply with this regulation.

**Historical Note**

Former Rule 16.

**R13-6-16. Vehicle markings, emblems, and insignia**

- A. No vehicle under the control of a security guard service shall bear markings similar to the markings used by any law enforcement agency of the Federal Government, the state, or any political subdivision thereof.
- B. No seals, insignia, or the words "Police", "Police Officer", "Patrol Officer", "Marshal", "Deputy", or "Patrolman" shall appear on the vehicle.
- C. All markings to be displayed on a vehicle under the control of a security guard agency must be submitted to the Director of the Department of Public Safety for written approval.
- D. All vehicles under the control of a security guard agency will comply with the provisions of A.R.S. § 28-947(C).
- E. No vehicle under the control of a security guard service shall display a red light other than to the rear. No such vehicle shall display a device, visible from the front of said vehicle, which might appear to be a red lamp.
- F. With the exception of armored cars using a siren as a crime alarm device, no vehicle under the control of a security guard company shall be equipped with a siren or bell.

**Historical Note**

Former Rule 17.

**R13-6-17. Liability insurance**

- A. An application for an original or renewal agency license shall provide a current certificate of a liability insurance policy issued by an insurance company licensed to do business in this state, in the amount of at least \$100,000.00 for any one person and an aggregate total of at least \$300,000.00.
- B. The liability insurance coverage shall be for the legal liability for damages resulting from:
  - 1. Bodily injury: Covers legal liability for personal injury arising out of an occurrence involved in the operation of the agency.
  - 2. Property damage liability: Covers legal liability for damage to property of others arising out of any occurrence involved in the operation of the agency.
  - 3. Personal injury coverage: Covers legal liability for damages resulting from personal injury, including, but not limited to false arrest, false imprisonment, detention, libel and slander, malicious prosecution, invasion of privacy, wrongful eviction or wrongful entry, discrimination; limits as shown in subsection (A) above.

**Historical Note**

Former Rule 18.

**R13-6-18. Absence of qualifying party**

No qualifying party operating under a security guard agency license shall leave his licensed place of business, while operating under the management of someone other than himself, for a period of 30 days or more without filing in writing with the Department of Public Safety, giving the name of the person designated by him to conduct the business during his absence.

**Historical Note**

Former Rule 19.

**R13-6-19. Knowledge of laws and regulations required**

All licensees and their employees, whose duties require or permit their performance as a security guard, shall be familiar with the laws relating to security guards and the regulations of the Department of Public Safety relating to security guards.

**Historical Note**

Former Rule 20.



**TITLE 13. PUBLIC SAFETY****CHAPTER 7. DEPARTMENT OF PUBLIC SAFETY  
POLYGRAPH EXAMINERS**

(Authority: A.R.S. § 32-2701 et seq.)

**ARTICLE 1. REPEALED**

## Section

R13-7-01. Repealed  
R13-7-02. Repealed  
R13-7-03. Repealed  
R13-7-04. Repealed  
R13-7-05. Repealed  
R13-7-06. Repealed

**R13-7-06. Repealed****Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). R13-7-06 repealed by summary action with an interim effective date of January 26, 1996; filed in the Office of the Secretary of State January 4, 1996 (Supp. 96-1). Adopted summary rules filed May 9, 1996; interim effective date of January 26, 1996 now the permanent effective date (Supp. 96-2).

**ARTICLE 1. REPEALED****R13-7-01. Repealed****Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). R13-7-01 repealed by summary action with an interim effective date of January 26, 1996; filed in the Office of the Secretary of State January 4, 1996 (Supp. 96-1). Adopted summary rules filed May 9, 1996; interim effective date of January 26, 1996 now the permanent effective date (Supp. 96-2).

**R13-7-02. Repealed****Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). R13-7-02 repealed by summary action with an interim effective date of January 26, 1996; filed in the Office of the Secretary of State January 4, 1996 (Supp. 96-1). Adopted summary rules filed May 9, 1996; interim effective date of January 26, 1996 now the permanent effective date (Supp. 96-2).

**R13-7-03. Repealed****Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). R13-7-03 repealed by summary action with an interim effective date of January 26, 1996; filed in the Office of the Secretary of State January 4, 1996 (Supp. 96-1). Adopted summary rules filed May 9, 1996; interim effective date of January 26, 1996 now the permanent effective date (Supp. 96-2).

**R13-7-04. Repealed****Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). R13-7-04 repealed by summary action with an interim effective date of January 26, 1996; filed in the Office of the Secretary of State January 4, 1996 (Supp. 96-1). Adopted summary rules filed May 9, 1996; interim effective date of January 26, 1996 now the permanent effective date (Supp. 96-2).

**R13-7-05. Repealed****Historical Note**

Adopted effective January 31, 1979 (Supp. 79-1). R13-7-05 repealed by summary action with an interim effective date of January 26, 1996; filed in the Office of the Secretary of State January 4, 1996 (Supp. 96-1). Adopted summary rules filed May 9, 1996; interim effective date of January 26, 1996 now the permanent effective date (Supp. 96-2).

**TITLE 13. PUBLIC SAFETY****CHAPTER 8. DEPARTMENT OF PUBLIC SAFETY LOCAL RETIREMENT BOARD**

(Authority: A.R.S. § 38-841 et seq.)

**ARTICLE 1. PROCEDURES***Article 1, consisting of Sections R13-8-101 through R13-8-114, adopted effective July 22, 1994 (Supp. 94-3).*

## Section

- R13-8-101. Definitions and Interpretation
- R13-8-102. Distribution of Information, Retirement Forms, and Applications
- R13-8-103. New Memberships
- R13-8-104. Normal Retirement and Deferred Retirement
- R13-8-105. Disability Retirement
- R13-8-106. Medical Examination of and Recovery by Member with Accidental or Ordinary Disability
- R13-8-107. Survivor's Benefits
- R13-8-108. Notification to Claimant of Determination as to Right of Claimant to a Benefit
- R13-8-109. Benefits Calculations
- R13-8-110. Termination of Benefits
- R13-8-111. Substantial Gainful Employment of Member with Accidental or Ordinary Disability Pension
- R13-8-112. Rehearing on Original Determination
- R13-8-113. Review of Decision by Local Board on Rehearing of Original Determination
- R13-8-114. Transcripts

**ARTICLE 1. PROCEDURES****R13-8-101. Definitions and Interpretation**

- A. "System" means the Public Safety Personnel Retirement System, created by the provisions of A.R.S. Title 38, Chapter 5, Article 4, (A.R.S. § 38-841 et seq.).
- B. "Local board" means the Department of Public Safety Local Retirement Board for the Public Safety Personnel Retirement System established pursuant to A.R.S. § 38-847.
- C. "Secretary" means the secretary of the local board.
- D. Interpretation and application of the rules in this Chapter shall be consistent with the definitions set forth in A.R.S. § 38-842.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R13-8-102. Distribution of Information, Retirement Forms, and Applications**

- A. Information explaining the system received from the fund manager, shall be maintained by the secretary who shall distribute the information:
  - 1. To potential members within one month of hire,
  - 2. Upon request, and
  - 3. Upon application for retirement.
- B. The retirement forms and applications are provided by the fund manager and shall be maintained by the secretary who shall distribute them upon request.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R13-8-103. New Memberships**

- A. Within one month of hire, the secretary shall distribute membership forms to the newly employed commissioned officers.
- B. After receipt of completed membership forms, the secretary shall request each applicant's medical report from the medical advisor of the Department of Public Safety and review the medical reports. The secretary shall report to the local board when the medical advisor has indicated that any applicant has

a condition which required a category II medical review for compliance with the Arizona Peace Officer Standards and Training Board medical requirements.

- C. The local board at its regularly scheduled meetings shall review the applications for new membership for eligibility in the system and the medical reports of any applicants with a medical waiver.
- D. If an applicant has a physical or mental condition or injury that existed or occurred prior to the date of membership in the system, but is otherwise eligible for membership, the local board shall approve membership, excluding accidental or ordinary disability benefits relating to the preexisting physical or mental condition or injury.
- E. If the local board denies membership or approves membership with an exclusion based on a preexisting condition, the secretary shall so notify the applicant.
- F. The local board may review on its own initiative and redetermine its prior decisions on membership and exclusions. The local board shall notify any member of any meeting at which the local board will review a prior decision affecting a member's membership.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R13-8-104. Normal Retirement and Deferred Retirement**

- A. When a member applies for normal retirement or deferred retirement, the member shall be provided with the appropriate forms, information on the documentation required, and assistance in applying for retirement.
- B. When all required forms and documentation have been fully completed and submitted to the secretary, the application for normal retirement or deferred retirement shall be placed on the agenda for the next regularly scheduled meeting of the local board, provided the submission is completed ten calendar days prior to the meeting.
- C. Upon a member's application, the member shall be permitted to address the local board.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R13-8-105. Disability Retirement**

- A. When a member applies for ordinary, accidental, or temporary disability pension, the member shall be provided with the appropriate forms, information on the documentation required, and assistance in applying for a disability pension.
- B. When all required forms and documentation have been fully completed and submitted to the secretary, the secretary shall schedule the appointed Medical Board, notify the claimant of the date, time, and location of the Medical Board examination, and forward the application and all appropriate papers to the Medical Board.
- C. If the claimant is applying for an ordinary disability pension, the local board shall request the Medical Board to address specifically:
  - 1. Whether the claimant
    - a. Has a physical condition which totally and permanently prevents the claimant from performing a reasonable range of duties within the member's department, or

- b. Has a mental condition which totally and permanently prevents the claimant from engaging in any substantial gainful activity, and
- 2. Whether the claimant's disability is the result of a physical or mental condition or injury that existed or occurred prior to the claimant's date of membership in the system.
- D.** If the claimant is applying for an accidental disability pension, the local board shall request the Medical Board to address specifically:
  - 1. Whether the claimant has a physical or mental condition which totally and permanently prevents the claimant from performing a reasonable range of duties within the member's job classification,
  - 2. Whether the disabling condition was incurred in the performance of the member's job duties, and
  - 3. Whether the claimant's disability is the result of a physical or mental condition or injury that existed or occurred prior to the claimant's date of membership in the system.
- E.** If the claimant is applying for a temporary disability pension, the local board shall request the Medical Board to address specifically:
  - 1. Whether the claimant has a physical or mental condition which totally and temporarily prevents the claimant from performing a reasonable range of duties within the member's department, and
  - 2. Whether the disabling condition was incurred in the performance of the member's job duties.
- F.** Upon receipt of the Medical Board's evaluation, the secretary shall forward a copy of the evaluation to the claimant, and the application for disability retirement shall be placed on the agenda for the next regularly scheduled meeting of the local board, provided the evaluation is received ten calendar days prior to the meeting.
- G.** Upon a member's application, the member shall be permitted to address the local board.

#### Historical Note

Adopted effective July 22, 1994 (Supp. 94-3).

#### **R13-8-106. Medical Examination of and Recovery by Member with Accidental or Ordinary Disability**

- A.** When the local board determines that a member qualifies for an ordinary or accidental disability retirement pension and the member will not reach normal retirement date within one year of the initial determination, the local board shall determine whether and when to request medical examination pursuant to A.R.S. § 38-844(D).
- B.** If the local board requests the medical examination, the secretary shall so calendar the requested medical examination; process and direct the relevant medical documents; notify the pensioner of the date, time, and location of the medical examination; and forward appropriate documentation to the doctors or clinic performing the medical examination.
- C.** The local board shall request the Medical Board performing the medical examination to address specifically whether the pensioner has sufficiently recovered to be able to engage in a reasonable range of duties within the member's job classification.
- D.** Upon receipt of the report of the medical examination, the secretary shall forward a copy to the pensioner and place the item on the agenda for the next regularly scheduled meeting of the local board, provided the report is received ten calendar days prior to the meeting.
- E.** The pensioner shall be permitted to address the local board at any board meeting at which a determination on recovery may be made.

- F.** If the local board determines that the pensioner has recovered sufficiently to be able to engage in a reasonable range of duties within the member's job classification, the local board shall so notify the pensioner and the member's department. If the member's department makes an offer of employment to the member, the local board shall terminate benefits.
- G.** If the local board determines that the pensioner has not recovered, the local board shall determine whether and when to request another medical examination pursuant to A.R.S. § 38-844(D).
- H.** Notwithstanding the provisions of subsections (A) and (G), the local board may request a medical examination pursuant to A.R.S. § 38-844(D) at any time prior to a disability pensioner's normal retirement date.

#### Historical Note

Adopted effective July 22, 1994 (Supp. 94-3).

#### **R13-8-107. Survivor's Benefits**

- A.** When a surviving spouse or a guardian applies for benefits, the surviving spouse or guardian shall be provided with the appropriate forms, information on the documentation required, and assistance in applying for death benefits for surviving spouse, guardian, and eligible children.
- B.** When all required forms and documentation have been fully completed and submitted to the secretary, the application for survivor's benefits shall be placed on the agenda for the next regularly scheduled meeting of the local board, provided the submission is completed ten calendar days prior to the meeting.
- C.** Upon application, the surviving spouses, guardians, and eligible children shall be permitted to address the local board.

#### Historical Note

Adopted effective July 22, 1994 (Supp. 94-3).

#### **R13-8-108. Notification to Claimant of Determination as to Right of Claimant to a Benefit**

- A.** When the local board approves applications for retirement, disability pensions, and survivor's benefits, the claimant shall receive notification of the local board's original determination either by attending the meeting at which the action was taken, by certified mail, or by receiving benefits from the system pursuant to the local board's original action.
- B.** When the local board denies applications for retirement, disability pensions, and survivor's benefits, the claimant shall receive notification of the local board's original determination either by attending the meeting at which the action was taken or by certified mail. The notification shall include notification to claimant of the statutory right to apply for a rehearing on the original determination within 60 days after receipt of notification.

#### Historical Note

Adopted effective July 22, 1994 (Supp. 94-3).

#### **R13-8-109. Benefits Calculations**

- A.** The local board delegates to the secretary the calculation of service retirement benefits, including all service retirements and surviving spouse, guardian, and eligible-child benefits for deceased members who were receiving service retirements, and the calculation of disability retirement benefits, including all disability retirements, surviving spouse, guardian, and eligible-child benefits for deceased members who were receiving disability retirements, and surviving spouse, guardian, and eligible-child benefits for non-retired, deceased members.
- B.** Upon request by a member, the secretary shall estimate the amount of the monthly pension at the time the member applies for retirement.

- C. Subsequent to the issuance of a member's last paycheck, the secretary shall calculate the service retirement benefits or the disability retirement benefits.
- D. The member, surviving spouse, guardian, or eligible child shall receive notification of the calculation of benefits by receiving benefits from the system or by certified mail.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R13-8-110. Termination of Benefits**

- A. Upon the death of a retired member, the local board shall terminate the member's benefits and shall entertain applications for survivor's benefits, if and when submitted.
- B. When an eligible child is no longer eligible, the local board shall terminate the child's pension and, where appropriate, any guardian or conservator's pension.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R13-8-111. Substantial Gainful Employment of Member with Accidental or Ordinary Disability Pension**

- A. For purposes of applying A.R.S. § 38-844(E), "substantial gainful employment" shall mean work, business, or activity in which the member is engaged for compensation unless the work, business, or activity is principally in or in conjunction with a recognized program of education, instruction, or training which allows a member receiving disability payments to acquire skills and knowledge necessary to seek employment in a field not covered by the system.
- B. For purposes of applying A.R.S. § 38-844(E), "earned income" shall include income or other compensation received for labor performed or services rendered by a member on disability. Such income and other compensation includes wages, salary, retainers, commissions, fees, and compensation for the member's labor or services which would otherwise be taxable as income, such as housing, automobile expenses, travel, and gifts. "Earned income" does not include income received by the member from savings accounts, stocks, bonds, proceeds from rental properties, promissory notes, and other forms of capital investments or from pensions, disability insurance, or social security.
- C. No later than April 30 of each year, each member receiving disability payments during the period prior to normal retirement date shall provide a notarized statement to the local board which identifies all earned income received by the member in the previous calendar year and describes the work, business, or activities in which the member was engaged for compensation. The statement shall also include the fair market value of all benefits received by the member during the previous calendar year as compensation for such work, business, or activity. Copies of all income tax statements and W-2 forms reflecting the member's income for the previous calendar year shall be attached to the notarized statement.
- D. Upon written request by a member, the local board may grant the member an additional 30 days to allow the member to provide the local board with the information required under subsection (C).
- E. If a member fails to report earned income as required by this rule, the local board shall suspend any further disability payments to the member until such time as the member reports such earned income for the previous year.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R13-8-112. Rehearing on Original Determination**

- A. The local board shall conduct rehearings pursuant to A.R.S. § 38-847(H) as an adjudicative proceeding under A.R.S. Title 41, Chapter 6, Article 6 (A.R.S. § 41-1061 et seq.).
- B. If the fund manager applies for a rehearing, the claimant whose benefit determination may be affected shall be a party to the proceeding.
- C. By ten calendar days prior to the rehearing, the claimant or fund manager shall submit to the local board a list of witnesses whom the claimant or fund manager intends to call to testify at the hearing and of all exhibits which the claimant or fund manager intends to use at the hearing as well as a copy of all listed exhibits.
- D. By ten calendar days prior to the rehearing, the claimant or fund manager may submit to the local board a written statement setting forth the facts of the case and a brief addressing relevant issues.
- E. If the claimant, fund manager, or local board desires subpoenas pursuant to A.R.S. § 41-1062(A)(4), said subpoenas shall be submitted at least ten calendar days prior to the rehearing to the secretary for issuance by the presiding hearing officer. Service of the subpoenas is the responsibility of the party requesting issuance of the subpoenas.
- F. Applications for permission to take depositions pursuant to A.R.S. § 41-1062(A)(4) shall be submitted to the secretary for determination by the presiding hearing officer.
- G. Unless the local board decides otherwise, the chairperson of the local board shall function as the presiding hearing officer. The local board may appoint a hearing officer to preside over the rehearing and to make written findings of fact and conclusions of law and a written recommendation to the local board with respect to any issues presented at the rehearing.
- H. The burden of proof for establishing a disability shall be with the claimant.

**Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**R13-8-113. Review of Decision by Local Board on Rehearing of Original Determination**

- A. Except as provided in subsection (H), the decision by the local board on rehearing of the original determination may be vacated and a new rehearing granted on motion of the aggrieved party for any of the following causes materially affecting that party's rights:
  1. Irregularity in the administrative proceedings of the local board or the hearing officer or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
  2. Misconduct of the local board, the hearing officer, or prevailing party.
  3. Accident or surprise which could not have been prevented by ordinary prudence.
  4. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the rehearing.
  5. Error in the admission or rejection of evidence, or other errors of law occurring at the rehearing or during the progress of the administrative proceeding.
  6. That the decision is the result of passion or prejudice.
  7. That the decision is not justified by the evidence or is contrary to law.
- B. A new rehearing may be granted to all or any of the parties and on all or part of the issues for any of the reasons for which new rehearings are authorized by law or rule of the local board. On the granting of a motion for review, the local board may take additional testimony, amend findings of fact and conclusions

of law, or make new findings and conclusions and direct the entry of a new decision.

- C. The motion for review shall be in writing, shall specify generally the grounds upon which the motion is based, and may be amended at any time before it is ruled upon by the local board.
- D. A motion for review shall be filed not later than 15 calendar days after receipt of notification of the decision by the local board on the rehearing of original determination. For purposes of this subsection, the claimant shall receive notification either by attending the meeting at which the decision is made or by certified mail.
- E. Any party to the proceeding may file a response to the motion or amended motion within ten calendar days after service of the motion or amended motion. The local board may require filing of briefs upon issues raised in the motion and may provide for oral argument.
- F. When a motion for rehearing is based upon affidavits, they shall be served with the motion. All parties to the proceeding have ten calendar days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 calendar days either by the local board for good cause shown or by the parties by written stipulation. The local board may permit reply affidavits.
- G. Not later than 40 calendar days after the decision, the local board of its own initiative may order a new rehearing for any reason for which it might have granted a new rehearing on motion of a party. Additionally, after giving the parties notice and an opportunity to be heard on the matter, the local board

may grant a motion for review, timely served, for a reason not stated in the motion. In either case the local board shall specify the grounds therefore.

- H. If the local board makes specific findings that the immediate effectiveness of a decision in a particular matter is necessary for the protection of the system and its members and that a review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without opportunity for a review. If a decision is issued as a final decision without an opportunity for review, any application for judicial review of the decision shall be made within the time limits permitted by law for applications for judicial review of the local board's final decisions.

#### **Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

#### **R13-8-114. Transcripts**

If any party designates any portion of the oral proceedings before the local board or hearing officer as part of the record on review in the superior court, the cost of the transcript shall be paid by the party so designating unless the local board waives the cost of transcription upon good cause shown. A request for waiver of the cost of the transcription shall be in writing and served upon the local board at the time of the service of the complaint.

#### **Historical Note**

Adopted effective July 22, 1994 (Supp. 94-3).

**TITLE 13. PUBLIC SAFETY****CHAPTER 9. DEPARTMENT OF PUBLIC SAFETY  
CONCEALED WEAPON PERMITS****ARTICLE 1. GENERAL PROVISIONS**

## Section

R13-9-101.	Definitions
R13-9-102.	Application Forms
R13-9-103.	Application and Processing Fees
R13-9-104.	Application for an Initial Concealed Weapon Permit
R13-9-105.	Review and Processing by the Department
R13-9-106.	Permit Issuance
R13-9-107.	Permittee Obligations
R13-9-108.	Permit Renewal
R13-9-109.	Firearms-safety Instructor Approval
R13-9-110.	Firearms-safety Training Program Approval
R13-9-111.	Suspension or Revocation
R13-9-112.	Reconsideration, Request for Hearing
R13-9-113.	Hearing

**ARTICLE 1. GENERAL PROVISIONS****R13-9-101. Definitions**

In this Article, unless otherwise specified:

1. "Applicant" means an individual or organization who submits a completed application form and the required fee to the Department to obtain a permit to carry a concealed weapon, to renew a permit, to be approved as a firearms-safety instructor, or to have a firearms-safety training program approved.
2. "Department" means the Department of Public Safety.
3. "Director" means the Director of the Department of Public Safety.
4. "Firearm" has the same meaning as in A.R.S. § 13-3101.
5. "Firearms-safety instructor" means an individual who has obtained approval under R13-9-109 to conduct initial and refresher firearms-safety training programs.
6. "Firearms-safety training program" means an initial course of instruction in the safe and lawful use of a firearm that meets the requirements of A.R.S. § 13-3112(N).
7. "Honorably retired peace officer" means a person who voluntarily separates from a law enforcement agency after 10 or more years of service; who did not separate to avoid disciplinary action or termination for cause; and who receives a medical, disability, or regular retirement pension or annuity as a result of qualifying years of service as a peace officer; and who has or can obtain a letter from the employer confirming these facts.
8. "Organization" means an entity legally established pursuant to federal, state, city, or county requirements and authorized to conduct business in Arizona and which seeks or has obtained the Department's approval of its firearms-safety training program.
9. "Original application" means any of the forms referenced in R13-9-102(A) that are not copies and that contain an original signature of the applicant.
10. "Peace officer" has the same meaning as in A.R.S. § 13-105.
11. "Permit" means an identification card issued by the Department that authorizes the named holder to carry a concealed weapon subject to the requirements of A.R.S. § 13-3112 and this Article.
12. "Permittee" means an individual who has qualified for and been issued a permit by the Department to carry a concealed weapon.

13. "Refresher firearms-safety training program" means a 4-hour course of instruction in the safe and lawful use of a firearm pursuant to A.R.S. § 13-3112(L).
14. "Resident" means a person who has lived in Arizona for 6 months immediately before the date of application for a concealed weapon permit and who remains in Arizona for a total of 6 months or more during each calendar year, or a member of the armed forces who has been stationed in Arizona for the 30 days immediately before the date of application for a concealed weapon permit.
15. "Satisfactorily completed" means obtaining a test score of 70% or more on both the written test and the live ammunition course-of-fire test.
16. "Weapon" includes the term "firearm" as defined in A.R.S. § 13-3101.

**Historical Note**

Adopted effective January 12, 1996 (Supp. 96-1).

**R13-9-102. Application Forms**

- A. The Department shall provide application forms for:
  1. An initial concealed weapon permit and renewal of the permit,
  2. Approval to be a firearms-safety instructor, and
  3. Approval of an organization's firearms-safety training program.
- B. Application forms may be obtained from the Department, Handgun Clearance and Permit Section, 2102 West Encanto Boulevard, P.O. Box 6638, Phoenix, Arizona 85005-6638. Upon request, the Department shall advise individuals or organizations of other locations where application forms may be obtained.
- C. An application shall be submitted only on a form provided by the Department.

**Historical Note**

Adopted effective January 12, 1996 (Supp. 96-1).

**R13-9-103. Application and Processing Fees**

- A. The Department shall collect the following fees:
  1. New permit - \$26,
  2. Renewal permit - \$26,
  3. Replacing a lost or stolen permit - \$20,
  4. Name change on a permit - \$20,
  5. Approval to be a firearms-safety instructor - \$50,
  6. Combined firearms-safety instructor approval and a permit - \$76.
- B. In addition to the fees in subsections (A)(1), (2), (5), and (6), the Department shall collect a fee in an amount necessary to cover the cost of federal noncriminal justice fingerprint processing for criminal history record information checks as provided by A.R.S. § 41-1750(J).
- C. An applicant or permittee shall submit the required fee in the form of a cashier's check, certified check, or money order made payable to the Department of Public Safety. All fees are nonrefundable.

**Historical Note**

Adopted effective January 12, 1996 (Supp. 96-1).

**R13-9-104. Application for an Initial Concealed Weapon Permit**

- A.** An applicant for an initial concealed weapon permit shall place a checkmark in the "New Permit Application" box on the Department's application form.
- B.** An applicant shall enter the following information in the spaces provided on the form:
1. Legal name as it shall appear on the permit;
  2. County of residence and residence address, including zip code, or descriptive location of residence if an address has not been assigned;
  3. Mailing address if different from residence address;
  4. Social security number;
  5. Driver's license number and state of issuance;
  6. Home and business telephone numbers; and
  7. Origin or race, sex, height, weight, eye color, hair color, date of birth, and place of birth.
- C.** An applicant for a concealed weapon permit shall answer "yes" or "no" to the following questions on the application:
1. Are you lawfully present in the United States?
  2. Are you a resident of Arizona?
  3. Are you at least 21 years of age?
  4. Have you satisfactorily completed the required firearms-safety training program?
  5. Are you currently under indictment for, or have you been convicted of, any felony in the United States or any other country?
  6. Do you suffer from mental illness or have you been adjudicated as mentally incompetent, or have you been committed to a mental institution?
  7. Are you requesting a concealed weapon permit concurrently with an application for approval to be a firearms-safety instructor?
  8. Are you an honorably retired federal, state, or local peace officer with a minimum of 10 years of service?
- D.** An applicant shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the applicant's original signature in the space provided at the bottom of the form.
- E.** Except for an applicant exempted by A.R.S. § 13-3112(E)(6), an applicant shall obtain the signature of a firearms-safety instructor in the space provided at the end of the application, certifying that the applicant satisfactorily completed the initial firearms-safety training program on the date specified.
- F.** The firearms-safety instructor's certification shall include:
1. The Department-assigned number of the firearms-safety training program,
  2. The Department-assigned number of the firearms-safety instructor,
  3. The Department-assigned number of the training organization,
  4. A seal or stamp affixed to the form identifying the training organization, and
  5. The date the applicant satisfactorily completes the program.
- G.** A certificate of completion of a firearms-safety training program shall remain valid for 6 months after the applicant satisfactorily completes the training.
- H.** An applicant shall submit to the Department the original application form, a completed fingerprint card with prints of sufficient quality to enable them to be classified, and the fees specified in R13-9-103.

**Historical Note**

Adopted effective January 12, 1996 (Supp. 96-1).

**R13-9-105. Review and Processing by the Department**

- A.** The Department shall review the application to verify that the applicant has submitted the required forms, information, and fees, and that the certificate of completion has not expired. The Department shall base the determination of deficiencies upon the requirements of A.R.S. § 13-3112 and this Article. Within 10 business days of receipt, the Department shall return an incomplete, illegible, or non-original application, or an application with an expired certificate of completion. With the return of an application, the Department shall include a written description of the deficiencies to be corrected.
- B.** Within 20 calendar days of receiving a completed application, the Department shall conduct a state criminal history check and request a national criminal history check of the applicant.
- C.** The Department may contact the applicant by telephone or by mail if clarification or further information is needed to determine eligibility. If the applicant provides the requested information within 40 calendar days from the date of the request, the Department shall complete its determination of eligibility. If the applicant fails to provide the requested information within 40 calendar days, the Department shall deny the application and return it to the applicant with a written explanation.
- D.** The Department shall not issue a concealed weapon permit to any person who has been convicted of a felony, even if the person's civil rights have been restored and the conviction expunged, set aside, or vacated. If a permit is denied, the Department shall notify the applicant in writing in accordance with A.R.S. § 13-3112(H).

**Historical Note**

Adopted effective January 12, 1996 (Supp. 96-1).

**R13-9-106. Permit Issuance**

- A.** When an applicant has satisfied the requirements of A.R.S. § 13-3112 and this Article, the Department shall issue a concealed weapon permit containing:
1. The permittee's legal name, as shown on the application;
  2. The permittee's date of birth;
  3. The permittee's physical description, including: origin or race, sex, height, weight, and color of eyes and hair;
  4. A permit number;
  5. The date of issuance and expiration; and
  6. The title of the permit, the state seal, and instructions to the permit holder.
- B.** The Department shall mail an approved permit to the applicant's residence address or mailing address shown on the application.

**Historical Note**

Adopted effective January 12, 1996 (Supp. 96-1).

**R13-9-107. Permittee Obligations**

- A.** Upon request of any peace officer, a permittee in actual possession of a concealed weapon shall present the permit to the peace officer for inspection. If the permit does not incorporate a photograph of the permittee, the permittee shall also present a separate type of official photographic identification. Official photographic identification is limited to the following:
1. Driver's license from any state,
  2. Military identification card,
  3. Identification card issued pursuant to A.R.S. § 28-421(01), or
  4. Passport.
- B.** A permittee shall not carry a concealed weapon in violation of A.R.S. § 13-3102(A).
- C.** A permittee whose permit is lost or stolen shall notify the Department upon determining the loss. When advised of a lost or stolen permit, the Department shall invalidate the permit.

The permittee shall not carry a concealed weapon until a replacement permit is obtained. The permittee may obtain a replacement permit by submitting a written request and the fee specified in R13-9-103(A)(3). If the applicant meets the requirements of A.R.S. 13-3112(E)(1), (2), (3), (4), and (5), the Department shall issue a replacement permit within 10 business days of receiving the request. The replacement permit shall have the same expiration date as the lost or stolen permit.

- D. A permittee shall notify the Department in writing within 10 calendar days of any change of name or address. The Department shall process the notice and update the permittee's information on file with the Department.
- E. A permittee whose name is changed from the name stated on the permit may request a revised permit by submitting a written request containing the previous name, the new name, and the fee specified in R13-9-103(A)(4). The revised permit shall retain the same expiration date as the previous permit. Within 10 business days from receipt of the request for a revised permit, the Department shall process the request and mail the revised permit to the permittee with instructions that failure to return the previous permit within 5 business days shall result in suspension of both the previous permit and the new permit. The Department shall destroy the previous permit upon receipt.
- F. A permittee shall not deface, alter, or mutilate a permit, or reproduce, lend, transfer, or sell a permit.

#### Historical Note

Adopted effective January 12, 1996 (Supp. 96-1).

#### R13-9-108. Permit Renewal

- A. A concealed weapon permit expires 4 years from date of issuance. An application for renewal of a permit may be submitted at any time between 90 calendar days before permit expiration and 60 calendar days after permit expiration. Upon expiration of a permit, the permittee shall not carry a concealed weapon until in possession of a renewed permit.
- B. To initiate renewal, a permittee shall place a checkmark in the "Renewal Permit Application" box on the application and shall enter all information requested in R13-9-104(B).
- C. The permittee shall answer "yes" or "no" on the application to the questions listed in R13-9-104(C).
- D. A permittee shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the permittee's original signature in the space provided.
- E. A permittee shall obtain the signature of a firearms-safety instructor in the space provided on the application, certifying that the permittee satisfactorily completed a Department-approved refresher firearms-safety training program.
- F. The certificate shall include the items of information required in R13-9-104(F).
- G. A certificate of completion of a refresher firearms-safety training program shall remain valid for 6 months after the applicant satisfactorily completes the training.
- H. A permittee shall submit to the Department the original application, a completed fingerprint card with prints of sufficient quality to enable them to be classified, and the fees specified in R13-9-103.
- I. The Department shall review and process the renewal application pursuant to R13-9-105. If the renewal application is received within 60 calendar days after expiration of the permit and the permittee meets the requirements of A.R.S. §§ 13-3112(E)(1) through (5), 13-3112(K) and (L), and this Article, the Department shall issue a renewed permit containing the information specified in R13-9-106(A).
- J. The Department shall deny a renewal application if it is received more than 60 calendar days after expiration of the permit. Within 10 business days after denying an application for renewal of a permit that has been expired for more than 60 calendar days, the Department shall return the application with a written notice stating the reason for denial and instructing the applicant to file for a new permit.

#### Historical Note

Adopted effective January 12, 1996 (Supp. 96-1).

#### R13-9-109. Firearms-Safety Instructor Approval

- A. An applicant seeking approval to be a firearms-safety instructor shall place a checkmark in the "Training Instructor Approval Application" box on the application and enter the information requested in R13-9-104(B).
- B. An applicant seeking approval to be a firearms-safety instructor shall answer "yes" or "no" to the questions listed in R13-9-104(C)(1), (2), (3), (5), (6), (7), and (8) on the application.
- C. An applicant shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the applicant's original signature in the space provided at the bottom of the form.
- D. To be eligible for approval as a firearms-safety instructor, an applicant shall:
  1. Meet the requirements of A.R.S. § 13-3112(E)(1), (2), (3), (4), and (5); and
  2. Possess a certificate of completion from 1 of the authorized firearms-safety training programs listed below:
    - a. Arizona Basic Police Firearms Instructor Certification, issued by the Peace Officers Standards and Training Board;
    - b. Police Firearms Instructor Development School, issued by the National Rifle Association;
    - c. Law Enforcement Security Firearms Instructor Development School, issued by the National Rifle Association; or
    - d. Personal Protection Instructor rating and Basic Pistol Instructor rating, issued by the National Rifle Association.
- E. An applicant seeking approval to be a firearms-safety training instructor shall submit to the Department:
  1. An original application,
  2. A certificate of completion from 1 of the instructor training programs listed in subsection (D)(2),
  3. A completed fingerprint card with prints of sufficient quality to enable them to be classified, and
  4. The fees specified in R13-9-103(A)(5) and (B) for a firearms-safety instructor approval only, or
  5. The fees specified in R13-9-103(A)(6) and (B) for a firearms-safety instructor approval and a concealed weapon permit.
- F. The Department shall review and process an application for a firearms-safety instructor approval consistent with the procedures in R13-9-105(A) through (C), except that a certificate of completion from 1 of the training programs listed in R13-9-109(D) shall replace the requirements of R13-9-104(E) and (F).
- G. If an application for firearms-safety instructor includes a request for a concealed weapon permit, the application shall be processed consistent with the procedures in R13-9-105(A) through (D).
- H. The Department shall notify the applicant in writing of approval or disapproval within 60 calendar days after receiving a completed application. The Department shall assign an identification number to each approved firearms-safety instructor. A firearms-safety instructor's approval from the



Department shall remain in effect unless suspended or revoked, or the instructor becomes ineligible pursuant to A.R.S. § 13-3112 or this Article.

#### Historical Note

Adopted effective January 12, 1996 (Supp. 96-1).

#### R13-9-110. Firearms-Safety Training Program Approval

- A. An organization seeking approval of its firearms-safety training program shall submit to the Department the following information on the application:
  1. The business name of the organization,
  2. The business address and mailing address of the organization, and
  3. The name and telephone number of an individual who shall serve as the primary contact with the Department and who shall have the authority to sign for and bind the organization.
- B. The person designated under subsection (A)(3) shall attest, under the penalty of perjury, to the truthfulness of the information given on the application by signing in the space provided at the bottom of the form.
- C. The organization shall attach to the application detailed topical outlines of its proposed classroom and practical training program. The outlines shall include test questions and their correct answers and cover the topics required by A.R.S. § 13-3112(N) for the initial training program. The topical outlines shall require that all target practice during training and qualifying shall be conducted using a firearm with live ammunition.
- D. The Department shall review the application to verify that the organization has submitted the required forms and information. Within 10 business days of receipt, the Department shall return an incomplete, illegible, or non-original application with a written description of the deficiencies. The Department shall base the determination of deficiencies upon the requirements of A.R.S. § 13-3112 and this Article.
- E. An organization needing assistance in developing a firearms-safety training program may submit a written request to the Department.
- F. Program approval shall remain in effect unless the organization's approval is suspended or revoked for failure to maintain the requirements of A.R.S. § 13-3112 or this Article.
- G. Within 90 calendar days after an organization's program is approved by the Department, the organization shall submit a written list of its Department-approved firearms-safety instructors' names and assigned numbers.
- H. A firearms-safety training organization shall notify the Department in writing within 10 calendar days of any change in its list of approved instructors, business address, telephone number, or name of the individual serving as the primary contact with the Department.
- I. A firearms-safety training organization shall send a written notice to the Department at least 10 calendar days before changing its business name. The notice shall state the effective date of the change and the Department shall update its records.
- J. For each individual who receives initial or refresher training, the firearms-safety training organization shall maintain the following written records for 5 years from the date of the trainee's completion of, or withdrawal from, the training:
  1. Name and age of the individual at the time training commenced;
  2. Dates and number of hours of each training session;
  3. Physical location of each training session;
  4. Title and Department-assigned number of the training program;
  5. Name and assigned number of each instructor conducting the training sessions; and

6. Outcome of the training: passed, failed, or withdrew from the program.

- K. Upon request by the Department, a firearms-safety training organization shall make its firearms-safety training records available to the Department for inspection.

#### Historical Note

Adopted effective January 12, 1996 (Supp. 96-1).

#### R13-9-111. Suspension or Revocation

- A. The Department shall suspend a concealed weapon permit if the permittee fails to carry the permit when in actual possession of a concealed weapon. The Department shall restore the permit under the condition specified in A.R.S. § 13-3112(B).
- B. The Department shall suspend a permit if the permittee is arrested or indicted for an offense that would make the permittee unqualified under the provisions of A.R.S. § 13-3101(6) or 13-3112. The Department shall restore the permit under the conditions specified in A.R.S. § 13-3112(C).
- C. The Department shall revoke a permit under the conditions specified in A.R.S. § 13-3112(C).
- D. The Department shall suspend or revoke a permit if the permittee fails to maintain all of the conditions specified in A.R.S. § 13-3112(E).
- E. The Department may suspend or revoke a permit, firearms-safety instructor approval, or firearms-safety program approval if the permittee, instructor, or organization:
  1. Violates or fails to meet any requirement of A.R.S. § 13-3112 or of this Article;
  2. Fails to continuously maintain any condition or requirement necessary for the issuance of a permit or granting of approval under A.R.S. § 13-3112 or this Article; or
  3. Provides false, incomplete, or misleading information to the Department.
- F. The Department may suspend a permit or approval for up to 1 year.
- G. If the Department revokes a permit or approval, the affected permittee, instructor, or organization shall not reapply for such permit or approval for 2 years from the date of revocation.
- H. The Department shall notify the affected permittee, instructor, or organization and state the reason for suspension or revocation. The notice shall be sent by mail to the last known address of the permittee, instructor, or organization. For purposes of R13-9-111, R13-9-112, and R13-9-113, notice shall be considered received on the earlier of the date of actual receipt or the 5th calendar day after the date of mailing.
- I. Upon receipt of a notice of suspension or revocation:
  1. A permittee shall return the permit to the Department within 5 business days,
  2. An instructor shall immediately stop providing instruction, and
  3. An organization shall immediately stop conducting any program.
- J. The Department may require immediate surrender of a permit or may seize a permit when required under A.R.S. § 13-3112.

#### Historical Note

Adopted effective January 12, 1996 (Supp. 96-1).

#### R13-9-112. Reconsideration, Request for Hearing

- A. On receipt of a notice of denial:
  1. An applicant for a concealed weapon permit or renewal of a permit may submit additional documentation to the Department. The applicant shall submit the documentation within 20 calendar days from receipt of the notice of denial.
  2. On receipt of additional documentation, the Department shall reconsider its decision and inform the applicant

within 20 calendar days of the Department's final decision. The decision is final upon mailing.

3. If denied after reconsideration under subsection (A)(2), the Department shall notify the applicant of the right to appeal to superior court.
  4. If the applicant has not submitted additional documentation under subsection (A)(1), the decision is final at the expiration of the 20-calendar-day period allowed for submission.
- B.** On receipt of a notice of:
1. Suspension or revocation of a permit; or
  2. Denial, suspension, or revocation of a firearms-safety instructor approval; or
  3. Denial, suspension, or revocation of a firearms-safety training program approval; the affected individual or organization is entitled to a hearing. A written request for a hearing shall be filed with the Department within 15 calendar days of receipt of the notice. The request shall be directed to the name and address stated in the notice.

#### Historical Note

Adopted effective January 12, 1996 (Supp. 96-1).

#### R13-9-113. Hearing

- A.** The Department shall grant a hearing to an individual or organization filing a timely application for a hearing under R13-9-112(B).
- B.** The Department shall notify the requester at least 20 calendar days before the hearing date. The notice shall include:
1. A statement of the time, place, and nature of the hearing;
  2. A statement of the legal authority and jurisdiction under which the hearing is being held;
  3. Reference to the particular sections of the statutes and rules involved; and
  4. A statement of the issues or matters involved.
- C.** The hearing shall be conducted in accordance with the provisions of A.R.S. Title 41, Chapter 6, Article 6 for hearing a contested case before an agency.
- D.** Hearings shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings.
- E.** Hearings shall be conducted by a hearing officer appointed by the Office of Administrative Hearings pursuant to A.R.S. Title 41, Chapter 6, Article 10.
- F.** Hearings shall be held at a location determined by the Department.
- G.** Irrelevant, immaterial, or unduly repetitious evidence shall be excluded by the hearing officer.
- H.** Notice may be taken of judicially cognizable facts and of recognized technical or scientific facts within the Department's specialized knowledge. The Department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.
- I.** Hearings shall be tape recorded.
- J.** The individual or organization shall have the right to be represented by counsel, to submit evidence in open hearing, and shall have the right of cross-examination.
- K.** The hearing officer may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and shall have the power to administer oaths.
- L.** The individual or organization shall submit to the hearing officer for approval any subpoena at least 10 calendar days prior to the hearing. If approved, the submitting party shall be responsible for service.
- M.** The hearing officer shall submit the findings to the Director.

- N.** The Director shall review the records of the findings by the hearing officer and may adopt, reverse, modify, supplement, or reject the recommendation of the hearing officer.
- O.** The Department shall mail written notice of the Director's decision to the individual or organization within 5 business days after the decision. The notice shall include findings of fact and conclusions of law. Notification shall be mailed to the individual's or organization's last known address and shall be deemed served upon mailing.
- P.** The individual or organization shall have the opportunity for a review or rehearing of the decision before the decision becomes final.
1. To obtain a review of the decision, the individual or organization shall file with the Director a written request for review within 15 calendar days after the Department mails the notice of the Director's decision.
  2. The Director shall review the decision after receiving a request under subsection (P)(1). The Director shall deny a rehearing unless the Director determines that grounds for a rehearing exist under the following subsection (P)(3).
  3. The Director may grant a rehearing for any of the following reasons:
    - a. Irregularity in the proceedings which deprived the individual or organization of a fair hearing;
    - b. The decision was not justified by the evidence or was contrary to law; or
    - c. There is new material evidence which, with reasonable diligence, could not have been discovered and produced at the hearing.
- Q.** All denials, suspensions, revocations, and decisions of the Director are effective on the date notice of such action is mailed to the individual or organization.
- R.** All denials, suspensions, revocations, and decisions of the Director are final, as set forth in this Article; or, if not otherwise set forth in this Article, are final upon expiration of time to apply for a hearing under R13-9-112(B).
- S.** If an application is timely filed for a hearing under R13-9-112(B), the decision of the Director is final:
1. If a request for review is not timely filed under R13-9-113(P)(1),
  2. Upon the mailing of the Director's denial of a rehearing under subsection(P)(2), or
  3. Upon the mailing of the Director's decision following a rehearing under subsection (P)(3).
- T.** When final, a decision may be subject to judicial review pursuant to A.R.S. Title 12, Chapter 7, Article 6.

#### Historical Note

Adopted effective January 12, 1996 (Supp. 96-1).